



# Structure and Organisation of the "Mobile and Wireless Communications and Technology Platform – eMobility Platform"

## Governance Model

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## 1. Introduction

Communications in general is fundamental to all social and economic activities with an impact much bigger than the Internet. Mobility of communications between people, and increasingly machines of all kinds, has further enhanced the impact. It has been instrumental in the optimisation of economic processes on a global scale with respect to productivity ("globalisation"). Mobile and wireless communications has become one of the most important global industries. This development is progressively extending from voice to data and multimedia services of all kinds. It will provide mobile and flexible access to electronic media, equipment and infrastructures, made up of a range of existing and future wireless technologies, in a seamless and transparent manner. "eMobility" stands for this vision.

***eMobility, a seamless and transparent access to wireless voice, data and multimedia services.***

The GSM system, for which European companies are global market leaders, is estimated to have generated over 3 Million jobs worldwide. The mobile and wireless business, as a whole, has created 4 Million jobs. This industry is expected to employ 10 Million people by 2010. However, Europe's position is being challenged by increased global competition with respect to innovation strength, know how and cost factors. Action needs to be taken to ensure that Europe benefits fully from the coming wave of innovation and its associated employment growth and to ensure that Europe derives maximum economic and social benefits from this growth.

In order to reinforce Europe's position as the leading region in mobile and wireless communications the

### **"Mobile and Wireless Communications and Technology Platform – eMobility Platform"**

(hereinafter referred to as the "eMobility Platform") is being created based on a common vision and a set of recommendations, which was developed in 2004 by a group of leading industrial players from mobile operators, equipment and component manufacturers, and content providers [1] and [2].

The challenge of ensuring and improving European leadership in mobile communications is part of a long-term programme of actions. Therefore, in the context of the preparation of the future European and national research programs and in particular the 7<sup>th</sup> Framework Programme of the European Commission, the eMobility Platform evolves into a formal technology platform as described in [3] and [4]. Collaboration in research and innovation in current and previous EU Programmes has been very successful and has played a very constructive role in developing global leadership in mobile markets. Industry is willing to allocate funds and human resources to the continuation and extension of collaborative R&D at EU level, and is convinced that "eMobility" will be essential for economic growth in Europe.

This document presents the potential organisational structure of the eMobility Platform. In this document the term "EU Commission" refers to these units in the Commission Services, which are responsible for research activities in the IST domain.

## 2. Vision and Mission of the eMobility Platform

The mobile industry is supporting the following eMobility vision for the further development of mobile and wireless communications:

- Support for **business & government processes** improves the competitiveness of the European economy.
- Services **hide complexity** from the user with interoperability between different access systems.
- **Multi-layered mobility** – users move & change devices, sub-networks in trains & cars move, software moves.
- **Peer-to-peer** communities emerge to empower people to collaborate.
- Opportunities for **social applications** expand through always-with-you qualities and reducing isolation.

This results in the mission statement of the eMobility Platform:

- Achieve full **mobile access to applications** for European citizens, building on European strength in mobile and wireless communications.
- **Develop the technology** to provide optimal applications relying on the most promising technologies and network resources.
- **Focus European R&D** resources to exploit the coming business opportunities in mobile and wireless communications to the benefit of the European economy, and ensuring **inclusion** especially for the new Member States.

These activities provide value for Europe in:

- Helping to ensure **inclusion** in Europe using mobile infrastructure and **bridging the Digital Divide**.
- **Empowering citizens** with new mobile based applications.
- Creating **new opportunities** for businesses and governments.
- Creating **new wealth** in the European economy.
- Focussing **European resources** to achieve critical mass in R&D and build on **European leadership** in mobile and wireless communications.
- Aligning a range of **EU instruments** in relation to the key issues of mobile and wireless communications.

## 3. Basic Conditions

With respect to [5] the key objectives of the Technology Platforms are:

- The drawing up of a strategic research agenda.
- The achievement of the necessary critical mass for research and innovation.
- The mobilisation of substantial public and private funding.

These objectives are especially related to the preparation of Framework Programme 7. – In other research programmes on EU (e.g. EUREKA) or national level possibly other adaptations to the legal conditions might be necessary. – Especially, the second and third bullet require an instrument in the legal conditions of Framework Programme 7 to achieve these objectives. The EU model contract should provide a legal status for Technology Platforms including the regulation of cooperation between projects and the access rights to know how between projects.

Therefore, the eMobility Platform should provide an instrument in Framework Programme 7 (FP7) in order to

- Allow the development of technical solutions from an end-to-end perspective.

- Enable a close and direct cooperation of complementary projects under the umbrella of the eMobility Platform, which should be part of a revised model contract to fix the conditions concerning access rights, IPRs and confidentiality across projects.
- Ensure sufficient impact in the international domain of mobile and wireless communications.
- Maintain and improve the position of European industry with respect to global competition.

The actual research work will be carried out in the projects under the umbrella of the Technology Platforms. Budget for funding of research will be allocated to these established project consortia, which will have a contract with the Commission.

All major players in the mobile and wireless and related domains will be involved in established projects under the umbrella of the eMobility Platform.

Technology Platforms should be led by the industry [6] in order to maintain and improve Europe's position in the area. However, the activities will be shared with the academic and R&D centre domain to involve all the available expertise and resources in Europe.

#### **4. eMobility Platform Tasks and Timetable**

The eMobility Platform will be a facilitator to prepare the future research and to enable harmonisation and consensus building in the area. Projects under the umbrella of the eMobility Platform should cooperate and complement each other towards common objectives in order to address the entire value chain in the sense of end-to-end solutions. Therefore, isolated projects should only be a small part of the activities in the eMobility Platform. The investigation of isolated topics in independent isolated projects will be performed by means of Integrated Projects, STREPS and Networks of Excellence as in FP6 and should be mainly done outside of the Technology Platforms. – The eMobility Platform has some focus on FP7 and adjusted its time plan to FP7. However, the cooperation with other research programmes on EU and national level has to be ensured. The following text mainly refers to FP7 without excluding other initiatives. –

The eMobility Platform activities are subdivided in three stages:

- In the initial stage from January to June 2004 the general framework has been developed [2].
- From July 2004 towards the launch of Framework Programme 7 the activities are focussed on the development of the Strategic Research Agenda beyond the end of FP7 and the development of the eMobility Platform as an instrument in FP7 building upon the outcome of the Mobile and Communications Technology Platform report in [2].
- After the launch of FP7 and during the operational phase, related complementary and cooperating research activities will be launched under the umbrella of the eMobility Platform.

The eMobility Platform will have the following main tasks:

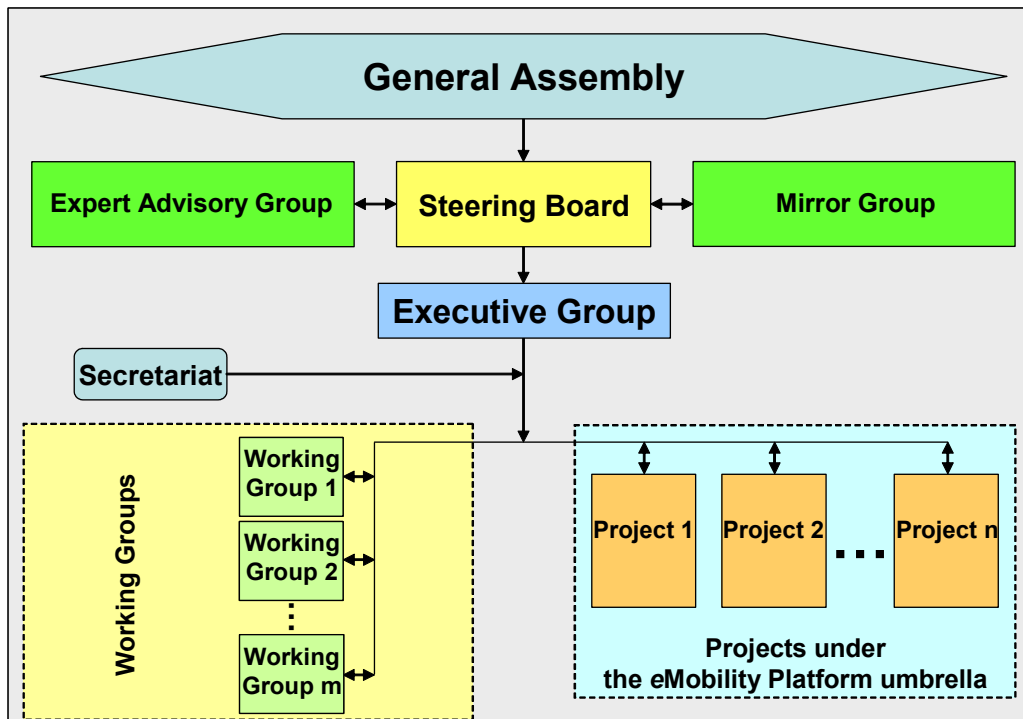
- Draft the technical description of the Strategic Research Agenda (eMobility workplan) reflecting the perception of sector actors based on the state-of-the-art and shared vision of future developments.
- Consult the sector actors concerned and establish a shared perception.
- Identify requirements and opportunities for EU R&D collaborative efforts taking into account commercial developments and work within other frameworks.

- Assist the Commission in the identification of requirements, options and priorities for collaborative R&D funding (related parts of the workplan on which the Commission bases its Call for Proposals).
- Initiating complementary research projects with respect to an end-to-end perspective.
- Establish inter-working relations between the projects following the contracting.
- Provide the monitoring of progress of the projects and carry out a strategic review of the R&D work in the context of evolving conditions.
- Monitor and advise on the on-going work taking into account the evolution in the understanding of requirements and options.
- Report to the Commission and sector actors on the progress and re-orientation of the workplan.
- Support rapid uptake of technology developments by application industries.
- Provide a general communications plan and publicity for the eMobility framework.
- Conduct a continuous dialogue with regulators especially on spectrum issues.

The eMobility Platform will establish close links to basic research in order to exploit early results, which can have a very profound impact, and inversely to initiate basic research where problems do arise.

## **5. Organisational Structure of the eMobility Platform**

The eMobility Platform is a facilitator to establish complementary and cooperating research projects and related activities. The eMobility Platform should comprise all stakeholders in the value chain, Member States, and the potential financial community. This includes industry, academia, European Commission in a consultancy role, and other potential sources of funding (e.g. European Investment Bank and/or Structural Funds). Figure 1 shows the structure of the eMobility Platform.



**Figure 1:** Potential eMobility Platform structure

The different stakeholders will be represented in different bodies and capacities according to Figure 1. Types of participation that could be envisaged are:

- General Assembly: Participation for all interested organisations (5.1.1).
- Steering Board: Participation mainly for commercial organisations according to an election procedure in order to ensure industry commitment and industry lead (5.1.2).
- Executive Group: Responsible for the daily work formed out of Steering Board organisations (5.1.3).
- Expert Advisory Group: Participation for experts/academia and later technical leaders in projects to support the Steering Board (5.1.4).
- Mirror Group: Participation for representatives of public authorities, national and regional bodies (5.1.5).
- Working Groups: Participation out of the eMobility Platform member organisations (5.1.6).
- Projects: Participation for all interested organisations even beyond the eMobility Platform member organisations (5.1.7).

The organisational structure has to ensure:

- on one hand openness for participation and transparency of information flow and decision making and
- on the other hand an efficient management of the activities and the decision making process.

The eMobility Platform should be an instrument in Framework Programme 7 (FP7) to enable the launch of complementary and cooperating projects. After the launch of FP7 a coordination process across the projects under the umbrella of the eMobility Platform will be established to avoid overlaps between projects and to ensure exchange of information where necessary in the sense of end-to-end solutions.

## **5.1 Bodies in the eMobility Platform**

### **5.1.1 General Assembly**

The General Assembly should represent a broad membership from all interested stakeholders in order to take into account in the activities the views and interests of all sector actors and active players. Any

- legally established corporation and individual firm, partnership, university and research institute, government body or international organisation,
- based in the European Member States, Candidate States and Associated Countries,
- supporting the mission and vision of the eMobility Platform and the further development of mobile, wireless and personal communications and
- confirming to be committed to the active participation in the ongoing and future framework programmes

can apply for membership in the eMobility Platform General Assembly. Each organisation should declare in its membership application, to which Stakeholder Group

- industry (e.g. vendors, operators, content providers, and other service providers),
- SMEs or
- research domain (universities, R&D centers)

it belongs to. New members will be accepted by the General Assembly based on proposals by the Steering Board.

#### General Assembly Meetings

Each member organisation in the General Assembly has the right to send a representative to General Assembly meetings and has one vote.

General Assembly meetings will be organised by the Steering Board at least once a year. The meeting date should be published 3 months ahead of the meetings.

The Chairperson of the Steering Board will convene and chair General Assembly meetings. The General Assembly will elect two Vice-Chairpersons for the General Assembly by simple majority vote for a term of two calendar years.

Issues for decision in the General Assembly have to be distributed in the invitation including the meeting agenda latest 2 weeks ahead of the meeting date.

Additional General Assembly meetings may be convened if at least 20 % of its members so request.

#### Responsibilities

The main responsibilities are:

- Election of two Vice-Chairpersons for the General Assembly.
- Election of the members of the Steering Board in the different Stakeholder Groups.
- Decision on accepting new members in the eMobility Platform.
- Decision on suspension, exclusion or expulsion of members in the eMobility Platform.
- Confirmation of the appointment of up to 3 observers in the Steering Board based on a Steering Board decision.
- Contribute to the Strategic Research Agenda, reports and recommendations.
- Contribute to the workplan for the establishment of Working Groups and the preparation of project proposals.
- Contribute to the Terms of Reference and the organisational structure.

Each member of the General Assembly can submit contributions to the Steering Board for review on the Strategic Research Agenda, the workplan, the Terms of Reference and the organisational structure.

The General Assembly will review the work done by the Steering Board and the Working Groups as well as after the launch of Framework Programme 7 (FP7) of the projects under the umbrella of the eMobility Platform.

### Decision Making Process

Decisions should be taken by consensus wherever possible. The Chairperson shall make every reasonable effort to facilitate consensus amongst the members of the General Assembly. If no consensus can be reached, decisions will be made by a voting procedure:

- A: Simple majority of the member organisations present in the meeting or answering e-mail voting in the cases:
- Election of two Vice-Chairpersons for the General Assembly.
  - Election of the members of the Steering Board in the different Stakeholder Groups (procedure: c.f. Steering Board under Section 5.1.2).
  - Decision on accepting new members in the eMobility Platform.
  - Confirmation of the appointment of up to 3 observers in the Steering Board based on a Steering Board decision.
- B: Two-thirds majority of the member organisations present in the meeting or answering e-mail voting in the case:
- Decision on suspension, exclusion or expulsion of members in the eMobility Platform.

Decisions either in physical meetings or via e-mail require a quorum of at least thirty percent of the member organisations in the General Assembly.

Voting decisions are made either in physical meetings or via e-mail. In that case a deadline for answering of 21 days (3 weeks) has to be provided. Silence up to the deadline means approval to ensure a decision in time.

### **5.1.2 Steering Board**

The Steering Board is the governing body of the eMobility Platform.

#### Responsibilities

The main responsibilities of the Steering Board are:

- Election of the Steering Board Chairperson and a Vice-Chairperson. The Chairperson will also chair the General Assembly.
- Implementation of the eMobility Platform.
- Initiation of the elections of Steering Board members in the General Assembly in time.
- Guidance on strategic direction, conflict resolution and the related proposals for the General Assembly.
- Invitation of members of the Expert Advisory Group.
- Decision on the appointment of up to 3 observers in the Steering Board. The observer from the Commission is nominated by the Commission Services.
- Decision on changes in the Terms of Reference and the organisational structure.

- Development and approval of the Strategic Research Agenda, of reports and recommendations.
- Development and approval of the workplan for the establishment of Working Groups and the preparation of project proposals.
- Launching of complementary and cooperating project proposals by taking into account contributions of the General Assembly after the launch of FP7.
- Handling of membership issues such as accepting new members in the eMobility Platform.
- Proposals for suspension, exclusion or expulsion of members in the eMobility Platform.
- Organisation of General Assembly meetings.
- Organisation of voting procedures by e-mail in the General Assembly.

#### Composition of the Steering Board and Criteria for Participation in the Initial Phase before the first General Assembly

Technology Platforms should be led by the industry. However, all Stakeholder Groups should be represented in the Steering Board including voting rights.

In the **initial phase** (up to the establishment of the first General Assembly) the following criteria for membership in the Steering Board apply:

- Contribution to the actual activities of the eMobility Platform, R&D Group Report for the European Commission and to the entire report [1] and [2]. This relates to the 15 organisations that are currently active:
  - Manufacturers: Alcatel, Ericsson, Lucent, Motorola, Nokia, Philips, Siemens, STMicroelectronics and Thales
  - Operators: Deutsche Telekom, France Telecom, H3G, Telefonica, TIM and Vodafone.
- Additional members in the **initial phase** will be included based on compliance with the following criteria:
  - Strategic commitment to European R&D in particular by the following means:
    - Strong European footprint: organisations with headquarters outside of the EU Member States, Candidate States and Associated Countries can participate, if they demonstrate a commitment to European R&D. \*
    - Extensive participation in European research programs (e.g. FP5 and FP6 and/or Eureka or other programs) either with significant manpower and/or accepting the task to coordinate research projects.

*\* These requirements are related to the size of the organisations.*

#### Composition of the Steering Board and Criteria for Participation after the first General Assembly

When the **first General Assembly** is established, a new Steering Board representing the following Stakeholder Groups shall be elected with the following number of seats on the Board:

- 17 Industry Representatives (e.g. vendors, operators, content providers, and other service providers) (voting rights)
- 2 SME Representatives (voting rights)
- 4 Research Domain Representatives (universities, R&D centers) (voting rights)
- 3 Observers (e.g. from other research programs, CELTIC, WWRF, user community),

1 observer from the CEC (directly nominated by the CEC services)  
(no voting rights)

This results in:

- 23 member organisations with voting rights and
- 4 observers without voting rights.

The size of the Steering Board has to be limited to ensure an efficient decision making process.

Representatives to be elected as members of the Steering Board with the **first General Assembly** have to fulfil the same criteria as for additional members in the initial phase:

- Strategic commitment to European R&D in particular by the following means:
  - Strong European footprint: organisations with headquarters outside of the EU Member States, Candidate States and Associated Countries can participate, if they demonstrate a commitment to European R&D. \*
  - Extensive participation in European research programs (e.g. FP5 and FP6 and/or Eureka or other programs) either with significant manpower and/or accepting the task to coordinate research projects. \*

*\* These requirements are related to the size of the organisations.*

Up to 3 observers will be appointed by the Steering Board and confirmed by the General Assembly. The observer from the Commission will directly be nominated by the Commission Services.

#### Election Procedure for the Steering Board

Each Stakeholder Group will elect its own representatives out of the members in the Stakeholder Group in the General Assembly according to the following procedure:

- Each Stakeholder Group will prepare a list of  $k$  candidates for the  $m$  available positions in the Steering Board.
- If  $k > m$ , a formal election procedure in the Stakeholder Group will be necessary.
- A secret ballot will be held to elect  $m$  representatives of its Stakeholder Group.
- Every member in the Stakeholder Group will submit a ballot with up to  $m$  votes, chosen from the  $k$  candidates of its Stakeholder Group.
- The  $m$  candidates with the most votes per Stakeholder Group become representatives in the Steering Board.
- In case of a tie a second ballot between the involved organisations will be necessary.

The Chairperson and a Vice-Chairperson of the Steering Board will be elected by the Steering Board member organisations by simple majority for a term of two calendar years.

#### Steering Board Meetings

Steering Board meetings will be organised by the Chairperson about three to four times a year. The meeting dates should be agreed at least 3 months ahead of the meetings. The meeting invitation should include the agenda and issues for decision.

#### Decision Making Process

Decisions should be taken by consensus wherever possible. The Chairperson shall make every reasonable effort to facilitate consensus amongst the members of the

Steering Board. If no consensus can be reached, decisions will be made by a voting procedure:

A: Simple majority of the member organisations present in the meeting or answering e-mail voting in the following cases:

- Election of the Steering Board Chairperson and a Vice-Chairperson.
- Issues on the implementation of the eMobility Platform.
- Decision on the invitation of members of the Expert Advisory Group.
- Decision in the appointment of up to 3 observers in the Steering Board.
- Decision on accepting new members in the eMobility Platform.

B: A two-thirds majority of the member organisations present in the meeting or answering e-mail voting in the following cases:

- Approval of the Strategic Research Agenda, reports and recommendations.
- Approval of the workplan for the establishment of Working Groups and the preparation of project proposals.
- Decision on suspension, exclusion or expulsion of members in the eMobility Platform as proposal for the General Assembly.
- Decisions on the Terms of Reference and the organisational structure.

Decisions either in physical meetings or via e-mail require a quorum of at least two-thirds of the Steering Board member organisations.

Voting decisions will be made either during physical meetings or via e-mail. In the latter case a deadline for responding within 10 days will be provided. Silence up to the deadline shall be deemed to mean approval, to ensure a decision in time.

The Steering Board can decide to invite observers from relevant organisation to its meetings, where appropriate. The Chairperson of the Steering Board may invite experts and advisers.

The Steering Board organises collaborations with other related Technology Platforms and R&D activities.

The Steering Board will establish liaisons with other research activities for information exchange. A liaison officer will be established by the Steering Board.

### **5.1.3 Executive Group**

The Steering Board may delegate organisational issues and the daily business to the Executive Group to prepare proposals for the Steering Board based on guidelines and decisions of the Steering Board and to run the activities between Steering Board meetings.

The Executive Group has decision power on organisational issues and the daily business under the mandate of the Steering Board. Decisions will be formally adopted by the Steering Board.

Decisions in the Executive Group have to be based on consensus. They will be taken either during physical meetings or via e-mail. If decisions are made via e-mail, a positive acknowledgement will be required.

The Executive Group will be recruited from amongst of the Steering Board organisations.

#### **5.1.4 Expert Advisory Group**

This group should represent R&D centres and the academic domain. The major objective and responsibility of this group should be to consult the eMobility Platform from the scientific perspective and to advocate for the interests of the research community.

Currently, 20 representatives have been invited from universities and R&D centres in the EU Member States Belgium, Denmark, Finland, France, Germany, Hungary, Italy, Poland, Portugal, Slovenia, Spain, The Netherlands and the UK.

Members of the Expert Advisory Group will be invited by the Steering Board.

#### **5.1.5 Mirror Group**

This group will represent the EU Member States and the associated states that are interested in participating in the eMobility Platform. These representatives may be regulators, government representatives and the European Investment Bank and/or Structural Funds. The ministries of economics and other related government agencies should be involved. Possibly, other stakeholders could be represented in this group. Special attention should be paid to the involvement of the new Member States in the Mirror Group.

The major objective and responsibility of this group will be to consult the eMobility Platform and to advocate for the interests of different groups.

#### **5.1.6 Working Groups**

The Steering Board will establish Working Groups to support the Steering Board, which are responsible for specific tasks such as but not limited to:

- Developing of the Strategic Research Agenda.
- Interaction and coordination with other Platforms relevant to the eMobility Platform.
- Interaction with other research activities relevant to the eMobility Platform.
- Implementation issues of the eMobility Platform.
- Research roadmap.
- Legal framework for the EU model contract and advice for Consortium Agreements.

Members of the Working Groups are taken from the member organisations of the General Assembly.

The Working Group Leaders will be appointed by the Steering Board and are responsible for reporting to the Steering Board.

#### **5.1.7 Actual Projects under the Umbrella of the eMobility Platform**

The actual research work will be carried out in the projects under the umbrella of the eMobility Platform after the launch of Framework Programme 7 in the operational phase. The funding will be allocated to the projects based on a contract between the EU Commission and these projects. The selection of research projects follows a competitive process according to the legal framework of the EU Commission.

The established research projects under the eMobility Platform will be open to all interested and competent parties significantly beyond the actual eMobility Platform member organisations.

A coordination process across the projects under the umbrella of the eMobility Platform will be established by involving the coordinators of the respective projects. The coordinators will report about the status of their projects to the Steering Board.

### **5.1.8 Secretarial Support**

The secretarial support will be performed by a project management organisation. In this initial phase up to the first General Assembly the work has been and will be done on voluntary basis. The Steering Board will consider:

- either to introduce a membership fee from all members of the General Assembly after the establishment of the first General Assembly to share the cost for the operations or
- to apply for other funding solutions such as a Specific Support Action in FP6.

In the case of a membership fee the amount will be due from the date of entry into membership and covers a calendar year. The amount will be decided on an annual basis. In the case of other funding solutions a membership fee should be avoided.

In addition, the Steering Board is considering, how the eMobility Platform should be established from a legal perspective in order:

- to handle membership fees for the operations,
- to subcontract secretarial work to other organisations,
- to handle copyright issues for received contributions and the use of provided material and
- to solve potential liability issues.

The following tasks will be performed:

- Maintenance of the eMobility Platform web site.
- Corporate identity and branding.
- The eMobility Platform member organisations register.
- Maintenance of mailing lists.
- Membership management including the handling of membership applications.
- Handling of eMobility Platform documents.
- Support of the Chairperson of the eMobility Platform and the Working Group Chairpersons to organise meetings.

The responsible persons for the secretarial support are responsible for reporting to the Steering Board.

## **5.2 Suspension, Exclusion and Expulsion**

The General Assembly can decide to suspend or expel a member of the eMobility Platform in the following cases:

- Severe violation of the statutes, procedures, policies, duties of membership or resolutions adopted by the General Assembly.
- Breach of confidentiality provisions by a member.
- No participation in two consecutive General Assembly meetings.

Membership in the General Assembly shall automatically cease in case of bankruptcy, withdrawal, dissolution or cessation of business or of change in the nature of business of such that criteria for membership would no longer be complied with.

A new membership application may be made after one year from the date of expulsion.

### **5.3 Resignation**

Resignations have to be notified in writing to the eMobility Platform secretarial support. Any such notice to withdraw shall take effect from the following calendar year.

### **5.4 Transparency**

The Steering Board shall have a high regard for the transparency of its activities and the need both for including and informing all relevant stakeholders of the activities of the eMobility Platform.

Adopted and approved documents being prepared for publication will be made available to the public via the Internet.

The eMobility Platform shall make every effort to consult all relevant stakeholders on documents under preparation that have a general interest (e.g., the Strategic Research Agenda).

## **6. Amendments to the Rules of Procedure and Terms of Reference**

The Terms of Reference and the Rules of procedure may be reviewed and amended at any time on request of at least three members of the Steering Board. The General Assembly has to decide on such changes, which will be prepared by the Steering Board.

## **7. Intellectual Property Rights (IPR)**

For individual research and technology development projects under public programmes such as Framework Programme 7, intergovernmental, national or regional programmes the IPR provisions of the respective public programmes and of the project specific consortium agreement will apply.

Copyright issues for the handling of received contributions and the use of provided material by the eMobility Platform or by other organisations will be solved with the legal establishment of the eMobility Platform. All contributions to the Strategic Research Agenda should have a legal status that the material can be published.

## **8. Disclosure of Information and Confidentiality**

Any and all information either orally disclosed or presented as material by a member of the eMobility Platform or its subgroups shall be deemed non-confidential except as may be provided below or as otherwise agreed to in a written agreement between the affected parties.

All information developed by the eMobility Platform shall be deemed to be Confidential Information of the eMobility Platform until made publicly available by a decision of the Steering Board. This should not affect the information disclosed or material presented by a member to the eMobility Platform or its subgroups. All works in progress, minutes of General Assembly meetings, minutes of the Steering Board, results of Working Groups, and attorney work product shall in all cases be deemed Confidential Information of the eMobility Platform and subject to the terms hereof.

From time to time a member may deem it necessary to disclose information to the eMobility Platform itself or to the other members which such member considers confidential or proprietary ("Confidential Information"). In such instances the relevant information may be disclosed in confidence and shall be considered Confidential Information of the disclosing party if, and only if, the information is specifically

designated as Confidential Information by the disclosing party at the time of disclosure. Any such designation shall be effected by (1) marking any information disclosed in writing in a manner which indicates it is the Confidential Information of the disclosing party; or (2) by orally indicating that any information disclosed orally is the Confidential Information of the disclosing party and then within ten (10) days providing all other members with a written summary of the orally disclosed Confidential Information so that such Confidential Information is more easily identified. By disclosing Confidential Information a member agrees that should any such Confidential Information be necessarily or inferentially disclosed in a publication of the eMobility Platform, such member shall allow publication of such information. All information disclosed by members prior to the date of this agreement directly for the purposes of the eMobility Platform shall be governed by the provisions of this section.

With respect to Confidential Information, the receiving party agrees, for a period of three (3) years, to use the same care and discretion to avoid disclosure, publication, and dissemination outside the receiving party and its affiliates<sup>1</sup>, contractors and consultants as the receiving party employs with its own Confidential Information, but no less than reasonable care. Any disclosure by a receiving party to its affiliates, contractors and consultants should be subject to an obligation of confidentiality at least as restrictive as those contained in this section. The foregoing obligation shall not apply to any information which is: (1) already known by the receiving party prior to disclosure; (2) publicly available through no fault of the receiving party; (3) rightfully received from a third party without a duty of confidentiality; (4) disclosed by the disclosing party to a third party without a duty of confidentiality on such third party; (5) independently developed by the receiving party; (6) disclosed pursuant to the order of a court or other authorized governmental body, or as required by law, provided that the receiving party provides reasonable prior written notice to the disclosing party, and cooperates with the disclosing party, so that the disclosing party has the opportunity to oppose any such order; or (7) disclosed by the receiving party with the disclosing party's prior written approval.

After resignation, suspension, exclusion, expulsion or non-renewal as a member, for any reason, a former member has a continuing duty under this Article.

## **9. Entry into Force**

These rules enter into force at the date of the adoption by the Steering Board of the initial phase.

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<sup>1</sup> Affiliate(s) of a party shall mean an entity which is directly or indirectly controlling such party, which is under the same direct or indirect ownership or control of such party, or which is directly or indirectly owned or controlled by such party. For these purposes, an entity shall be treated as being controlled by another if that other entity has fifty percent (50%) or more of the votes in such entity, is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

## References

- [1] Mobile Communications & Technology Platform: Final Report, Brussels, 8 January 2004.
- [2] Mobile Communications & Technology Platform: Final Report, Brussels, 9 June 2004.
- [3] Communication from the Commission on a European Initiative for Growth: investing in networks and knowledge for growth and jobs, COM(2003) 690 final.
- [4] Communication from the Commission to the Council and the European Parliament on Building our Common Future: Policy challenges and budgetary means of the enlarged Union 2007-2013, COM(2004) 101 final.
- [5] Commission of the European Communities: Communication from the Commission, Science and technology, the key to Europe's future – Guidelines for future European Union policy to support research, COM(2004) 353, 16.06.2004.
- [6] European Commission: Seminar on Technology Platforms. Brussels, December 15, 2004.