

**BYLAWS**  
**TECHNOLOGY ENHANCED LEARNING**  
**EUROPEAN ADVANCED RESEARCH CONSORTIUM**

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## **Art. 1 – Name, head office, legal personality and liability of the Association and term**

### **Art. 1.1 – Name of the Association**

A non-profit association, governed by the French law of July 1<sup>st</sup>, 1901, relative to the association contract and the French decree of August 16<sup>th</sup>, 1901, regulating public administration for the execution of the law of July 1<sup>st</sup>, 1901, is instituted between the founding members, as listed in Annex 1.

The legal name of this association is “Technology Enhanced Learning European Advanced Research Consortium” (TELEARC).

### **Art. 1.2 – Head office**

The Association head office is located at the following address:

Fondation Rhône-Alpes Futur  
89 rue Bellecombe  
69003 Lyon, France.

The head office may be transferred by a decision of the Governing Board approved in ordinary session.

### **Art. 1.3 – Legal personality and liability of the Association**

In application of the French Law of 1901, the Association has a legal personality, different from any one of its Members. Its Members cannot be pursued in court individually or together for the actions of the Association. They shall not be deemed liable for the debts of the Association or for its obligations.

The Association does not assume obligations on behalf of the Association Members. The Association only represents them within the research topics mentioned in the Art. 2.2. It always and exclusively acts for and on behalf of itself, except where there is an express authorisation by the General Assembly.

In regard to its members, the obligations of the Association are legally defined as “*obligations de moyens*”. Accordingly, the Association shall be required only to use its best efforts to fulfil its obligations to the exclusion of any guarantee of result. In case of violation of these obligations, the Association shall be deemed liable only if the Association Members prove fault. Nevertheless, the Association shall not be deemed liable – in all or in part – if it proves that its fault is due to the negligence of one of the Association Member, the fault of a third party or *force majeure*, as defined in the French Civil Code.

### **Art. 1.4 – Term**

The term of the Association is fixed at 10 years, starting from the registration to the French authorities. Before the end of this term, it may be renewed subject to a decision made by the General Assembly and approved in extraordinary session.

The new term of the Association shall be clearly established. In such case, all articles of these Bylaws will remain in force for the new term of the Association.

These Bylaws shall take effect, be valid and be binding upon the Association Members and towards third parties from the registration to the French authorities, i.e. at the Prefecture to which the place of the head office depends.

## **Art. 2 – Objectives and research topics**

### ***Art. 2.1 – Objectives***

The Association pursues the following objectives:

- a) Contribute to the shaping of scientific evolution of technology enhanced learning
- b) Strengthen the scientific collaborations between research teams and foster integration of European research teams in the field of technology enhanced learning
- c) Promote the excellence of European research in the area of technology enhanced learning
- d) Raise awareness in the area toward the scientific community, policy-makers and the general public

The Association will therefore:

- a) Encourage the diffusion and exploitation of its skills by promoting the participation of its Members in national and international research projects,
- b) Foster the development of learning communities gathering people involved in the different research disciplines linked to technology enhanced learning,
- c) Provide a forum for informal discussions between funding agencies, policy-makers, industry, users and the research community and offer policy advocacy at a European level,
- d) Create, promote and implement education and training activities, notably conferences, seminars, and workshops
- e) Develop collaborations with users of technology enhanced learning
- f) Develop international cooperation with other stakeholders in the area of technology enhanced learning

### ***Art. 2.2 – Research topics***

The main research topics on which the activities of the Association are based, concern any issue or question relevant to technology enhanced learning, including system design, implementation, use and deployment.

## **Art. 3 – Membership**

### ***Art. 3.1 – Members***

The Association is composed of:

- a) The Founding Members listed in Annex 1;
- b) The Research Units represented at the first meeting of the General Assembly;
- c) Any other European Research Unit that so requests, subject to approval by the General Assembly, on the basis of regulations that are specified in the Internal Regulations.

All members of the Association shall make significant contributions to or have direct or indirect interests in promoting research and development in the field of technology enhanced learning.

Every Association Member has the right to have its own representative at the General Assembly. Each Association Member designates a physical person to be its representative. A Member may change its representative by informing the Governing Board.

### ***Art. 3.2 – Membership dues***

Each Association Member is required to pay annually membership dues in order to maintain its membership. Membership dues are non-transferable and may not be re-assessed.

The amount of the membership dues, payment conditions and other aspects related to them are defined in the Internal Regulations.

### **Art. 3.3 – Members liability**

The Association Member's legal personality is distinct from that of the Association. Accordingly, the Association Members shall not assume obligations on behalf of the Association. Association Members shall not be deemed liable to the faults of the Association. They shall not guarantee performance or fulfillment of contractual obligations of the Association. However, the Association Members cannot bind the Association by their own act.

All obligations of the Association Members, defined in these Bylaws, are legally defined as "*obligations de moyens*". Accordingly, each Association Member shall be required only to use its best efforts to fulfil its obligations to the exclusion of any guarantee of result. In case of violation of these obligations, the negligent Association Member shall be deemed liable only if the beneficiary of the obligation proves fault. Nevertheless, the negligent member of the Association shall not be deemed liable – in all or in part – if it proves that its fault is due to the negligence of the beneficiary of the obligation, the fault of a third party or *force majeure*.

Specific obligations of Art.3.3 (Membership dues) are legally defined as "*obligations de résultat*". Accordingly, each Association Member shall guarantee complete performance and fulfilment of these obligations without exception. In case of violation of these obligations, the negligent member of the Association shall be automatically deemed liable. The beneficiary of these obligations need only prove harm and not fault of the negligent member of the Association. Nevertheless, the negligent member of the Association shall not be deemed liable – in all or in part – if it proves that its fault is due to the negligence of the beneficiary of the obligation, the fault of a third party or *force majeure*.

### **Art. 3.4 – Withdrawal and exclusion**

- a) Each member can withdraw from the Association by sending a registered letter with acknowledgement of receipt addressed to the legal domicile of the Association. The withdrawal is enforceable as soon as the letter is received. The act of withdrawal does not exempt the withdrawing Association Member from fulfilling its obligations previously adopted in relation to the Association or third parties.
- b) In case of violation of its obligations, the negligent member of the Association can be excluded. His exclusion can be proposed to the General Assembly at any time. Only harm and not fault of the negligent member shall be proved. The decision will be taken by a vote in favour by at least 2/3 of the members of the General Assembly. The excluded member has no right to indemnification.

## **Art. 4 – Governance structure**

### **Art. 4.1 – General Assembly**

#### **Art. 4.1.1 Duties and composition**

- a) The General Assembly is the decision-making body of the Association. The General Assembly may delegate some of its powers to the Scientific Director or the Governing Board that do not concern budget approval, amendment of these Bylaws or dissolution of the Association.
- b) The General Assembly is composed of one representative for each of the Association Members, appointed according to their respective regulations from among their permanent staff members with proven skills in the field of technology enhanced learning.
- c) The General Assembly is chaired by the Scientific Director. He/she convenes the Assembly in ordinary or in extraordinary session. He/she checks the existence of the quorum and writes and signs the minutes of the sessions.

## **Art. 4.1.2 Meetings and voting procedures**

- a) The first meeting of the General Assembly will take place at least three months after the registration of these Bylaws by the French authorities. It will be convened and chaired by one representative of the Founding Members and will be composed of:
- the Founding Members,
  - the Research Units invited by the Founding Members to take part and that have sent a representative.
- b) The General Assembly meets in ordinary session at least once a year. In ordinary session, the General Assembly:
- elects and dismisses the Scientific Director and the Members of the Governing Board;
  - approves the budget, the final accounts and the scientific report on activities carried out prepared by the Scientific Director;
  - approves Internal Regulations of these Bylaws;
  - approves the annual plans of activities drawn up by the Governing Board;
  - draws up multi-annual plans of activities making use, if applicable, of the advisory opinion of experts and supervises their accomplishment;
  - endorses new Association Members, as defined in Art. 3.1 and in the Internal Regulations;
  - deliberates on all matters concerning the administration of the Association.
- c) The General Assembly meets in extraordinary session when:
- at least one third of its members requests so or at the initiative of the Scientific Director or the Governing Board;
  - it is required for decisions to be taken according to these Bylaws or the Internal Regulations.
- d) If not otherwise specified in the Bylaws or the Internal Regulations, decisions of the General Assembly are approved by simple majority vote. In case of a tie, the Scientific Director has a casting vote.
- e) Any other matter related to meetings, quorum and voting procedures are defined in the Internal Regulations.

## **Art. 4.2 – Scientific Director**

### **Art. 4.2.1 Duties**

The Scientific Director:

- convenes and chairs the General Assembly and the Governing Board;
- draws up the budget, the final accounts and the annual scientific report;
- determinates the place and the date of meetings of the General Assembly;
- writes and signs the minutes of meetings ;
- nominates among the members of the Governing Board a deputy Scientific Director and a Treasurer.

The Scientific Director has the legal representation of the Association. To this end, and with the assistance of the Governing Board, he/she:

- set objectives and decides upon priorities within the overall policy frame determined by the General Assembly,
- implements the decisions of the General Assembly,
- ensures that these Bylaws and the Internal Regulations are observed,
- supervises the activities and administration of the Association itself.

The Scientific Director may also sign agreements and contracts for and on behalf of the Association, including for the hiring of personnel, following prior consultation of the Association Members and with approval of the Governing Board.

For carrying out his/her duties, the Scientific Director may be helped by a management office, as defined in the Internal Regulations.

#### **Art. 4.2.2 Election**

- a) The Scientific Director is elected by the General Assembly on its first meeting with an absolute majority vote, from among the Members of the Association with recognised competences in the field of technology enhanced learning.
- b) His/her term of office lasts three years and can be renewed once. After each term of office, the election of the Director is organized by the General Assembly. The candidacies have to be declared to the members of the General Assembly at least 15 days before the session of the General Assembly. When a member of the General Assembly takes on the task of Director, he/she cannot be a member of the Governing Board for the duration of the office.

#### **Art. 4.2.3 Liability**

All obligations of the Scientific Director are legally defined as “*obligations de moyens*”. Accordingly, the Scientific Director shall be required only to use its best efforts to fulfil its obligations to the exclusion of any guarantee of result to the other Association Members.

In case of violation of these obligations, the Scientific Director shall be deemed liable only if the beneficiary member of the obligation proves fault. Nevertheless, the Scientific Director shall not be deemed liable – in all or in part –, if he proves that his fault is due to the negligence of the beneficiary member of the obligation, the fault of a third party or *force majeure*.

The Scientific Director shall not assume obligations on behalf of the Association Members. He/she shall in all circumstances act exclusively for and on behalf of the Association.

The Scientific Director shall not be deemed liable for the debts of the Association.

### **Art. 4.3 – Governing Board**

#### **Art. 4.3.1 Duties**

The Governing Board assists the Scientific Director in implementing the duties in Art. 4.2.1, and those delegated to him by the General Assembly, as indicated in Art. 4.1.1 a). Items to be submitted to the Governing Board for approval beforehand are:

- a) any contract or agreement signed by the Scientific Director for and on behalf of the Association,
- b) the nomination of the Deputy Scientific Director and the Treasurer, as well as the appointing or hiring of the members of the management office.

The Governing Board draws up and presents to the General Assembly an annual programme of activities.

The Governing Board may nominate working or consultative committees in order to achieve the objectives defined in Art. 2.1 of these Bylaws.

The Governing Board will express its own opinion on:

- a) the Association’s proposals of activities;
- b) the participation of the Association in initiatives of a scientific nature;
- c) any other matter of scientific importance.

### **Art. 4.3.2 Composition and election**

- a) The Governing Board is composed of members with competences in the field of technology enhanced learning and belonging to the Association Members. It is chaired by the Scientific Director or, failing this, by the Deputy Scientific Director.
- b) The term of office of members of the Governing Board is three years and can be renewed once.
- c) The number of Members of the Governing Board and the election procedure shall be defined in the Internal Regulations.

### **Art. 4.3.3 Meetings and voting procedure**

- a) The Governing Board meets at least once a year.
- b) The Governing Board is properly formed and can validly deliberate when the presence of at least half of its members is confirmed. If the quorum is not met, an electronic vote procedure will be used. The Governing Board deliberates with a simple majority vote. In case of a tie, the Scientific Director or the Deputy Scientific Director has a casting vote.
- c) Any other matter regarding meetings and voting procedures of the Governing Board shall be defined in the Internal Regulations.

## **Art. 5 – Resources and funding**

The Association is a non-profit organisation and, for the attainment of its objectives, it avails itself of:

- a) Membership dues specified in Art. 3.2;
- b) Funds disbursed by the Association Members;
- c) Contributions disbursed for scientific research activities by public and private entities, notably by the European Commission or by other state administrations;
- d) Resources generated by the activity carried out on the basis of orders, research contracts or agreements with public administrations, and with other public or private institutions or entities;
- e) Any donations, legacies, bequests, and acts of generosity that are duly subscribed and authorized by law.

## **Art. 6 – Assets**

To cover the commitments made in the course of its normal activities, and to ensure its longevity, the Association is allowed to accumulate capital reserves, either in liquidity or in the form of assets. These assets should appear in the annual financial report of the Association.

## **Art. 7 – Personnel**

- a) The Association can make use of personnel transferred by the Association Members, in accordance with the Regulations mentioned in Art. 9, and subject to a written authorization by the relevant Association Member. The transfer shall be temporary and free of cost.
- b) The Association can make use of personnel seconded by the Association Members, as sub-contractors, in accordance with the Regulations mentioned in Art. 9, and subject to a written authorization by the relevant Association Member.
- c) The Association may also proceed with the hiring of personnel to be assigned to specific jobs, in accordance with the labour law of the country where the hired personnel will carry out the job assigned and the Regulations mentioned in Art. 9.

## **Art. 8 – Intellectual property related issues**

The industrial or intellectual property rights and publications related to the results of research and discoveries made within the scope of the activities conducted for the fulfilment of the objectives pursuant to Art. 2.1, notwithstanding legal provisions, will be regulated in detail in specific contracts or agreements between the Association Members and/or any third party involved.

## **Art. 9 – Internal Regulations**

Within one year from the date of establishment of the Association, the Internal Regulations of these Bylaws will be adopted by a decision of the General Assembly, in ordinary session, for the personnel, the administration of the Association and the accounting and operating of the bodies of the Association.

## **Art. 10 – Amendments to these Bylaws**

Proposals of amendments to these Bylaws shall be put forward by at least 1/3 of the members of the General Assembly or by the Governing Board.

The General Assembly approves amendments to these Bylaws in extraordinary session.

## **Art. 11 – Dissolution**

The Association may be dissolved at any time by a decision taken with a vote in favour of at least 2/3 of the members of the General Assembly in extraordinary session.

In the case of dissolution, whether it is decided by the General Assembly, or forced by external events, the assets that remain after liquidation shall be transferred according to the decision of the General Assembly, in accordance with French law.

## **Art. 12 – Miscellaneous**

### ***Art. 12.1 – Language***

- a) These Bylaws of this Association are written in both French and English. In case of any inconsistency between the two versions, the English version shall prevail. Any translation of these Bylaws into another language shall be for information purposes only.
- b) Any notices, correspondence, communication and documentation to be issued, exchanged or delivered to either Association Members in connection with the performance of these Bylaws will be in English.

### ***Art. 12.2 – Applicable law***

These Bylaws shall be governed by and construed and shall take effect in accordance with French law.

The regulations of the French Law on the subject of Associations govern anything that is not laid down in these Bylaws.

### ***Art. 12.3 – Settlement of disputes***

- a) In the event of a dispute, controversy or claim, arising out or in connection with the Bylaws, including any question regarding its existence, validity or termination, the Association Members shall use their best endeavours to resolve the dispute amicably.

b) If the Association Members fail to resolve the dispute within a period of three weeks, then such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. Such arbitration shall be held in Brussels and shall be conducted in English, if not otherwise agreed by the conflicting Members. The award of the arbitration will be final and binding upon the Members. Nothing in these Bylaws shall limit the Members' right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

### ***Art. 12.4 – Severability***

Any provision of the Bylaws prohibited by or unlawful or unenforceable under any applicable law then applied by any court of competent jurisdiction shall, to the extent required by such law, be severed from the Bylaws and rendered ineffective so far as is possible without modifying the remaining provisions.

Where, however, the provisions of any such applicable law may be waived, they are hereby waived by the Association Members hereto to the fullest extent permitted by such law, with the result that the Bylaws shall be valid and binding and enforceable in accordance with its terms.

The Association Members hereto agree to replace, so far as practicable, any provision which is prohibited, unlawful or unenforceable with another provision having substantially the same effect (in its legal and commercial content) as the replaced provision, but which is not prohibited, unlawful or unenforceable.

The invalidity in whole or in part of any provisions of any of the present Bylaws shall not void or affect the validity of any other provision.

Approved in ...[date]

**Signed in two copies of the French and English versions**