

Disclaimer :

This document is a template aimed at assisting applicants for funding under the calls launched by the CSJU to inform them about the model provisions applicable in the ITD/IADP implementation agreement which a Partner selected by the CSJU will be requested to sign. In accordance with the model Grant Agreement for Partners, a Partner may either sign this implementation agreement or accede to the ITD/IADP consortium agreement for Members which is a case by case decision of each ITD/IADP.

The legally binding version of the implementation agreement will be the one signed by the selected Partner(s).

The CSJU shall bear no responsibility for this document which is under the responsibility of the Leaders of the CSJU and is published on the CSJU website and H2020 portal in order to provide potential applicants with the full set of applicable documents in the calls.

Optional clause in the text are highlighted in yellow

Alternative clauses in the text are highlighted in blue



Clean Sky 2 Joint Undertaking (H2020 actions)
Call Reference N°:[insert number]

ITD/IADP/TA TITLE: [insert title]

PROPOSAL TITLE: [insert title]

Clean Sky 2 Joint Technology Initiative

Template IMPLEMENTATION AGREEMENT

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THIS IMPLEMENTATION AGREEMENT for the [insert name of IADP/ITD] ITD is made on [[]] pursuant to

COUNCIL REGULATION (EU) No 558/2014 of 6 May 2014 setting up the Clean Sky 2 Joint Undertaking ("CSJU") including its Annex I, hereinafter referred to as Statutes.
And

The CSJU Grant Agreement for Partners signed by the CSJU and the Partner on the and in particular its Article 41.4.

BETWEEN:

(1) [Insert Name, corporate number and main business address of the *IADP/ITD Topic Manager* ("Topic Manager" in the meaning of the CS2 model grant agreement for Partners ; and

(2), (3), ..., [insert Name, corporate number and main business address of *the private Members of the CSJU participating in IADP/ITD other than the Topic Manager* who are involved with the work of the Partner] ("Member(s)"); and

(
the provisions of the Relevant Grant Agreement(s) on the terms and conditions of this Implementation Agreement

AGREED TERMS:

Section 1: Definitions

1.1 Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the H2020 Rules for Participation or in the Clean Sky 2 Statutes or in the Grant Agreement for Partners as attached to this Implementation Agreement including its Annexes without the need to replicate said terms herein.

1.2 Additional and Modified Definitions¹

"**Additional Member**" means a Member which elects to become a Party to this Implementation Agreement by signing an instrument in the form of Attachment 2;]

" **Confidential Information** " means all information in whatever form or mode of transmission, which is disclosed by a Disclosing Party to a Recipient in connection with the IADP/ITD activities during its implementation and which has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within [15] days from oral disclosure at the latest as confidential information by the Disclosing Party,

"**Defaulting Party**" means a Party which is in breach of this Implementation Agreement and/or the relevant Grant Agreement(s).

¹ Specific and different definitions in accordance with each IADP/ITD Consortium Agreement may be required]

"Disclosing Party" means the Party disclosing Confidential Information;

"Effective Date" means either the date of signature of this Implementation Agreement or the Start Date of the Grant Agreement for Partners whichever is the earlier;

"Fair and Reasonable Conditions" means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the Results or Background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

"Grant Agreement for Members" means the Grant Agreement (s) executed in relation to the IADP/ITD by the JU and the Member that is also a Party to this Implementation Agreement;

"Grant Agreement for Partners" means the Grant Agreement reference [insert CSJU reference] signed and executed by the JU and the Partner(s) in relation to the IADP/ITD Activities;

"IADP/ITD" means the [insert name of IADP/ITD] ;

"IADP/ITD Activities" means the activities to be performed by [the] or [one or more] Partner(s) as described in Annex I to the Grant Agreement for Partners;

"IADP/ITD Consortium Agreement" means the document signedamong the Members of an ITD/IADP and its attachments, including any amendments thereto as well as any other document incorporated therein by reference, which are integral parts of this Implementation Agreement.

"IADP/ITD Consortium" means the consortium of parties, signatories of the IADP/ITD Consortium Agreement

"IADP/ITD Steering Committee" means the JU body referred to in Article 11 of Annex 1 (the Statutes) of the Clean Sky 2 JU Regulation (EU) No 558/2014 of 6th May 2014

"Joint Undertaking" or **"CSJU"** means the Clean Sky 2 Joint Undertaking as set up by the Council Regulation (EU) No 558/2014 of 6 May 2014

"Legitimate Interest" means a Party's interest of any kind, particularly a commercial interest which may be claimed in the cases provided for in this Implementation Agreement such as: (i) - for Protection the Party must show that failure to take account of its interest would result in its suffering disproportionately high level of harm, (ii) for Dissemination the Party has to declare it considers that its Legitimate Interests in relation to its Results or Background could suffer disproportionately great harm.

"Linked Third Party"

means the Affiliated Entities and third party with a legal link to the Beneficiary as defined and identified in the relevant Grant Agreement and as listed in Attachment 8.

"Members" means the Topic Manager and those other private members of the CSJU who are parties to the Relevant Grant Agreement for Members, IADP/ITD Consortium Agreement; and of this Implementation Agreement and includes the Additional Members with effect from their respective dates of accession to this Implementation Agreement.

“Needed” means that, without the grant of Access Rights:

In the case of Access Rights granted for Implementation , carrying out the tasks assigned to the recipient Party under the Project (as amended from time to time) would be impossible or significantly delayed.

In the case of Access Rights granted for Exploitation, the Exploitation of a defined and material element of the recipient Party’s own **Results / information** (*both words on option/ select either “Results” or “information”*) for your template would be technically or legally impossible.

“Partner” means a beneficiary selected by the CSJU following a call for proposal and which is a signatory to the present Implementation Agreement

"Recipient" means the Party receiving Confidential Information;

"Relevant Grant Agreement" means either the XXX IADP/ITD Grant Agreement for Members entered into by the CSJU with the Members of the CSJU for the XXX IADP/ ITD including the Members Parties to this Implementation Agreement or the Grant Agreement for Partners entered into by the CSJU with the Partner(s) in relation with the XXX IADP/ ITD.

“Results” means the Results created by the Topic Manager, the other Members if applicable and by the Partner in relation to the ITD/IADP Activities co-funded by the JU under the Grant Agreement for Partner.

“Software”

means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

Topic Manager means the IADP/ITD private Member appointed by the JU as responsible for the topic in the call for proposals under which this action was selected and which is a Party to the present implementation agreement .

["Work Package" means any one or more work package s which together form the work scope of the IADP/ITD according to the description of work appended to the Grant Agreement for Members as the same may be developed over the life of the IADP/ITD;]

Section 2: Scope and Purpose

2.1 The purpose of this Implementation Agreement is to specify the respective rights and obligations of the Topic Manager and other Member(s) where applicable and the Partner(s) with respect to the implementation of the IADP/ITD Activities, as defined in the Annexes I and II of the GAP, and this Implementation Agreement.

Section 3: Entry into force, duration and termination

3.1 Entry into force

This Implementation Agreement shall have effect from the Effective Date.

3.2 Duration and termination

Unless earlier terminated, this Implementation Agreement shall continue in full force and effect until fulfillment of all of the obligations of the Partner under its Grant Agreement for Partners.

The participation of one or more Partners (in the event of a Partners Consortium in this latter case) to this Implementation Agreement may be terminated in accordance with the terms of this Implementation Agreement and the Grant Agreement for Partners.

This Implementation Agreement shall terminate in the event of termination or non-renewal of participation of the Topic Manager in the relevant Grant Agreement for Members. [Shall the Grant Agreement for Partners continue despite the termination of the Grant Agreement for Members the Parties can agree mutually that the Implementation Agreement will survive for a period mutually agreed by the Parties.]

In the event of a breach by a Party of its obligations under this Implementation Agreement such Party will be given written notice requiring such breach to be remedied within thirty (30) calendar days.

If such breach is not remedied within that period or is not capable of remedy, the non-breaching Parties to this Implementation Agreement may decide to declare the Party to be a Defaulting Party and shall give notice of such declaration to the CSJU which shall take appropriate measures based on the Grant Agreement for Partners.

If the CSJU does not sign the Grant Agreement for Partners or terminates the Grant Agreement for Partners or a Partner's participation in the Grant Agreement for Partners, this Implementation Agreement shall automatically terminate in respect of the affected Partner(s) as Party(ies) hereto, subject to the provisions surviving the expiration or termination under Art. 3.4 of this Implementation Agreement.

3.3 Withdrawal of the participation of a Party.

The Parties agree that if the Partner or a Partner in case of a Partners Consortium requests to withdraw from its participation in the IADP/ITD Activities it will be considered as a request for termination and be subject to the unanimous agreement of the Parties to this Implementation Agreement. A Member may withdraw from this Implementation Agreement with the unanimous consent of the other Members. The Topic Manager shall consult the other Members of the IADP/ITD Consortium before giving or withholding such agreement.

3.4 Survival of rights and obligations

The provisions relating to Access Rights, Confidentiality, Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Implementation Agreement as agreed in the respective articles.

Termination or voluntary withdrawal of the (a) Partner shall not affect and will be without prejudice to any rights of such Partner accrued at the date of termination or withdrawal or obligations of such Partner, unless otherwise agreed. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

Section 4: Responsibilities of Parties

4.1 General principles

The (Each) Partner undertakes to act in good faith (including with third parties) and to take part in the efficient implementation of the IADP/ITD, and to cooperate, perform and fulfill, promptly and on time, all of its obligations under the Grant Agreement for Partners and this Implementation Agreement in good faith as prescribed by Belgian law.

The (Each) Partner undertakes to notify promptly to the Topic Manager any significant information, fact, problem or delay likely to affect the IADP/ITD. The (Each) Partner shall promptly provide all information reasonably required by the Topic Manager to carry out its tasks in relation to the management and operation of the IADP/ITD.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

4.2 Plurality of Partners *[Not applicable if there is only one Partner – mono-beneficiary GAP]²*

In case of a Partners Consortium, Each Partner being a member of a Partners Consortium agrees to be represented by one person representing such consortium as the single representative for all purposes of this Implementation Agreement (the "Partner Coordinator").

The Partners being members of a Partners Consortium signing this Implementation Agreement will be jointly responsible to the other Parties for the performance of all activities allocated to them under the Grant Agreement for Partners.

Each Partner Consortium member is jointly and severally liable for the performance of its activities allocated to such consortium by the Grant Agreement. for Partners.

Section 5: Liability

5.1 Notwithstanding its liability towards the CSJU as set out in the Grant Agreement for Partners the Partner(s) undertakes to the other Parties to perform its work at its own risk and under its sole liability and shall be liable for non-compliance of its obligations in relation to any IADP/ITD Activities in which it is involved based on the present Implementation Agreement.

5.2 Warranties (Option1 title) *Select either this option 1 or option 2 below*

In respect of any information or materials supplied by one Party under the ITD/IADP Activities object of this Implementation Agreement , no warranty or representation of any kind is made, given or implied to another Party as to the sufficiency or fitness for purpose. Each Party warrants that to the best of its knowledge, the intellectual property rights it provides as Background and Results do not infringe any rights of third parties at the date the Party grants such access rights.

Each Party undertakes not to knowingly use any proprietary rights of a third party for which such Party has not acquired the corresponding right of use and/or right to grant licenses to the other Parties.

Each Party undertakes not to use any proprietary rights of a Party for which such Party has not acquired the corresponding right of use as provided in the Section 9 of this Implementation Agreement.

No Warranties (Option 2 title)

² In the event of more than one Partner participating to the Implementation Agreement, such Partners shall form a consortium among each other (Hereinafter referred to as " Partner Consortium")

In respect of any information or materials supplied or created by one Party, no warranty or representation of any kind is made, given or implied to any recipient Party as to the sufficiency, fitness for purpose or as to the absence of any infringement of any proprietary rights of third parties.

The recipient Party shall otherwise and in all cases be entirely and solely liable for the use to which it puts such information and materials.

Nevertheless, each Party undertakes that it will not knowingly make available any proprietary rights of a third party for any IADP/ITD Activities for which such Party has not acquired the corresponding right of use and to grant licenses.

5.3 Limitation and exclusion of contractual liability

No Party shall be responsible to any other Party for any indirect or consequential loss.

The total aggregate liability of each Party for any and all loss and damage arising out of or in connection with this Implementation Agreement howsoever caused is limited to the *single / twice the total budget³ under the Grant Agreement for Partners*

The exclusions and limitations of liability stated above shall not apply in the case of damage caused by a willful act or gross negligence.

The terms of this Implementation Agreement shall not be construed to exclude or limit any Party's non-contractual liability.

5.4 Damage caused to third parties

Each Party shall be solely liable and will indemnify the other Parties for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations under this Implementation Agreement.

5.5 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) remains solely responsible for carrying out its activities under this Implementation Agreement and for such third party's compliance with the provisions of this Implementation Agreement and of the Relevant Grant Agreement. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties to this Implementation Agreement,.

A Party and its Linked Third Parties are jointly and severally liable towards the JU pursuant to the Grant Agreement and as far as it stipulates.

Furthermore a Party which involves Linked Third Parties shall ensure and be responsible for the technical management of each Linked Third Party and shall report the same to the Coordinator.

5.6 Loan or Bailment of Materials

³ Alternative clauses, to be determined case by case, the choice of the clause remains with the Topic Manager.

In the case of loan or bailment of materials between the Partner(s) and the Member(s) for the performance under their respective Grant Agreements , an agreement based on the model set out in Attachment 6 shall be entered into by the Parties and may be amended to contain specific conditions.

5.7 Demonstrators, Flight tests

5.7.1 Demonstrators

Concerning the Demonstrator and its parts supplied by the Parties, for the performance of its activities within the ITD each supplying Party warrants that :

these parts will comply with the agreed specifications of the relevant Project(s); and
it will use reasonable skill and care in design and manufacturing; and
it will repair and/or replace these parts in case of defect at conditions to be mutually agreed; and

This warranty shall be valid for the duration of the relevant Programme

Each Party who supplies parts for the Demonstrator(s) shall take out and maintain in force the insurance policies necessary to cover its liability under the relevant Project(s). To this effect, such Party shall provide proof of such insurance policies to the relevant Project Manager on demand.

5.7.2 Flight tests

In the case of any supply, loan or bail of between Parties for the performance of any flight test activities within the IADP the relevant Parties shall enter into a specific agreement setting out their respective rights obligations and liabilities. If deemed appropriate by both Parties, such agreement may require the other Party to give the Party performing the flight test recommendations and/or warranties as to:

use of appropriate materials

use of reasonable skills and care in design; and

compliance with any applicable aircraft interface specification.

compliance with all applicable flightworthiness standards allowing the Party performing test to obtain a Permit to Fly from airworthiness authorities.

Each such agreement shall set out the obligations of the Parties to carry insurance in respect of their potential liabilities thereunder. Unless otherwise agreed the operator of the aircraft on which the flight test is performed shall carry appropriate aircraft hull insurance and cause its insurers to waive subrogation rights and the supplying Party shall carry product liability insurance sufficient to cover its third party legal liability.

Section 6: Partner Management

The Topic Manager is responsible for the monitoring of the activities of the Partner(s) described in the Annex1 of the Grant Agreement for Partners according to the framework laid down in the present Implementation Agreement and the principles as laid down in the Grant Agreement for Partners . The principles may be laid down case by case and listed in this paragraph.⁴

⁴ Adaptations will be necessary to reflect actual management structure of each ITD

In order to be able to perform the monitoring of the Partners activities , The Topic Manager shall be provided a copy of the Grant Agreement for Partner in particular of the Annex 1.

The Partner shall comply with the guidance submitted to him by the Topic Manager, in so far as compliance with such instructions does not conflict with this Implementation Agreement or with the Grant Agreement for Partners

6.1 Technical Opinion on Reports and Deliverables

In accordance with Article 20.1 of the Grant Agreement for Partners, the Topic Manager is in charge of formulating an opinion on the technical reports and deliverable submitted for approval to the CSJU by the Partner. The opinion of the Topic Manager will be sought as appropriate by the CSJU in relation to other aspects of implementation of the work in the interest of the relevant ITD/IADP objectives. The Partner(s) shall therefore support the Topic Manager in this regard on request.

6.2 Cooperation framework

Instruction of use: This article shall be populated according to the particular project reality by the parties and focus on project management modalities , it shall include items such as meetings, reviews, milestones, timeframes, etc....if not already included in the technical description of the project.

Section 7: Financial provisions

7.1 General Principles

The financial regime for the performance of the IADP/ITD Activities is described in the Grant Agreement for Partners entered into with the CSJU and the Partner(s).

7.2 Payments of the JU financial contribution

The financial contribution of the CSJU to Partner(s) shall be paid directly by the CSJU to the Partner(s) concerned in accordance with the Grant Agreement for Partners and the other Party(ies) to this Implementation Agreement shall have no responsibility related thereto.

Section 8: Intellectual Property, Exploitation and Dissemination

Each of the Parties shall comply with their respective obligations and will have the rights granted to them as set out in the Relevant Grant Agreement for Partner and the Grant Agreement for Members in respect of the IADP/ITD Activities .

8.1 Ownership

8.1.1 Background

All Background is and will remain the exclusive property of the Party owning it (or, where applicable, the third party from whom its right to use the Background has derived) and except as

otherwise provided for herein, no Party will be entitled to any right or license to any of the other Party's Background.

8.1.2 Results

Except as otherwise provided for in this Implementation Agreement, the rights in Results shall belong exclusively to the Party generating such Results.

8.1.2.1 Joint ownership

In case of joint ownership of Results, each of the joint owners shall be entitled to use their jointly owned Results free of charge, and without requiring the prior consent of the other joint-owner(s) for their own direct Exploitation only.

As long as the joint ownership agreement is not yet concluded, each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-license, subject to the following condition:

- a) at least 45 days prior notice must be given to the other joint owner(s);
- b) Fair and Reasonable compensation must be provided to the other joint owner(s).

8.1.2.2 Transfer of Results

Each Party may transfer ownership of its own Results wholly or in part following the procedures of the Relevant Grant Agreement.

It may identify specific "potential assignees" it intends to transfer the ownership of its Results to in Attachment 5 to this Implementation Agreement.

The other Parties shall not object to a transfer to listed "potential assignees" in Attachment 5.

The transferring Party shall, however, notify the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer.

Any addition to Attachment 5 after signature of this Implementation Agreement requires the agreement amendment procedure.

The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving prior notice for the transfer as foreseen in the Relevant Grant Agreement for Partners

8.2 Dissemination

8.2 .1 Publication

Dissemination activities including but not restricted to publications and presentations shall be governed by the Relevant Grant Agreement. Parties engaged in dissemination activities shall notify the other Parties prior to issuing such dissemination. The Topic Manager shall consult the IADP/ITD Consortium before any such dissemination activities take place.

8.2 .2 Publication of Results or Background

For the avoidance of doubt, a Party shall not publish Results or Background of another Party or another Member of the IADP/ITD which is not a Party, even if such Results or Background is amalgamated with such Party or another Members of the IADP/ITD - which is not a Party-Results, without the other Party or another Member's of the IADP/ITD which is a not a Party prior written approval.

The Parties undertake to cooperate to allow the timely submission, examination, publication and defense of any dissertation or thesis for a degree which includes their Results or Background. However, confidentiality and publication clauses have to be respected.

8.2 .3 Use of names, logos or trademarks

Nothing in this Agreement shall be construed as conferring rights to use in advertising, publicity, or otherwise the name of the Parties or any of their logos or trademarks, without their prior written approval.

Section 9: Access Rights

Subject to the terms of this Implementation Agreement, the Partner(s) will have the Access Rights granted to it as set out in Article 25.5 of the Grant Agreement for Members on those of the Results and Background of the Topic Manager and the other Members Parties to this Implementation Agreement related to the ITD/IADP Activities object of this Implementation Agreement.

Subject to the terms of this Implementation Agreement the Topic Manager and other Parties to this Implementation Agreement who are Members will have the Access Rights granted to them as set out in Article 25.5 of the Grant Agreement for Partners. Both Grant Agreements shall be interpreted as complementary agreements

9.1 Background covered

The Parties shall identify in the Attachment 1 the Background to which they shall grant Access Rights, and may update the Attachment 1 within the duration of the entire Project .

However, A Party may decide to withdraw Background from Attachment 1, provided that:

- (i) Such Party provides the other Parties with a prior written notice to that effect, and
- (ii) The Background has not yet been used by one of the Parties and/or is not planned to be used.

The Parties agree that all Background not listed in Attachment 1 shall be explicitly excluded from Access Rights.

The Parties agree, however, to negotiate in good faith additions to Attachment 1 if a Party so request and provide such additions are needed. For the avoidance of doubt, the owner is under no obligation to agree to additions of his Background to Attachment 1.

9.2 General Principles

Each Party shall take appropriate measures to ensure that it can grant Access Rights and fulfil the obligations under the Relevant Grant Agreements for Partners and for Members and this

Implementation Agreement notwithstanding any rights of its employees, or any person it assigns or engages to perform its own work share.

As provided in the Relevant Grant Agreement(s) for Partner and for Members, the Parties shall specify promptly in Attachment 1 any limitation to the granting of Access Rights to Background or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project)

Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise.

Access Rights shall be free of any administrative transfer costs.

Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the Relevant Grant Agreements for Partners and for Members

Results and Background shall be used only for the purposes for which Access Rights to it have been granted.

All requests for Access Rights shall be made in writing. The granting of Access Rights may be made conditional on the acceptance of specific conditions ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

The requesting Party must show with all due care and in good faith that the Access Rights are Needed.

9.3 Access Rights for Implementation

As set out in Article 31.6 of the model Grant Agreement for Partners, the Partner(s) shall grant to the Topic Manager and the Members Parties to this Implementation Agreement -on a royalty free basis - Access Rights to its Results and Background Needed for the purpose of performing their tasks in the ITD/IADP in relation with the ITD/IADP Activities. Such Party will have no right to sub-license the same without the prior written permission of such Partner(s).

As set out in Article 31.6 of the model Grant agreement for Members, the Topic Manager and the other Members Parties to this Implementation Agreement shall grant to Partner(s)– on royalty free basis - Access Rights to Results and Background Needed for the purpose of performing its the ITD/IADP Activities .

Such Partner(s) will have no right to sub-license the same without the prior written permission of the Topic Manager and the other Members – Parties to this Implementation Agreement who owns such Background or Results .

Any grant of Access Rights to subcontractors or Linked Third Parties, for Implementation shall equally be effectuated on the royalty-free basis, however any Party may exercise its own discretion as to whether such rights will be granted to the concerned Subcontractors or Linked Third Parties if it considers its Legitimate Interests being negatively impacted by such access rights

9.4 Access Rights for Exploitation

Access Rights to Results if Needed for Exploitation shall be granted on Fair and Reasonable conditions.

Access rights to Results for Exploitation if Needed for a third party research shall be subject to the prior written agreement of the owner of the Results and granted on Fair and Reasonable conditions and, such agreement will not be unreasonably withheld.

Access rights to Results for Exploitation if Needed for internal research activities shall be granted on a royalty-free basis.

Access Rights to Background if Needed for Exploitation of a Party's own Results shall be granted on Fair and Reasonable conditions.

A request for Access Rights may be made up to **XXX 5 years (to be determined case by case)** after the end of the ITD/IADP Activities notwithstanding that the participation in the Implementation Agreement of the Party to whom such request is made may have expired or terminated at an earlier date.

9.5 Access Rights for Affiliated Entities

Notwithstanding Article 25 and 31 of the Relevant Grant Agreement for Members and Grant Agreement for Partners, Affiliate Entities shall enjoy Access Rights where the Party requiring Access Rights for its Affiliate Entity can show that its Affiliate Entity:

- holds the right to use the Results owned by the Party it is affiliated to; and
- needs Access Rights in order to Exploit such Results ; and
- is established in a Member State or an Associated Country; and
- is listed in Attachment 3 to this Implementation Agreement.

Such Access Rights shall be granted on Fair and Reasonable conditions and upon written bilateral agreement with the owner of the Background or Results or its related Beneficiary. Affiliated Entities which obtain Access Rights shall fulfil all confidentiality and other obligations accepted by the Parties under the Relevant Grant Agreement and under this Implementation Agreement as if such Affiliated Entities were Parties.

However a Party may refuse to grant Access Rights to another Party's Affiliated Entity which is listed in Attachment 3 if the Party asked to grant such Access Rights has, prior to the signature of the Implementation Agreement, raised objections stating that its Legitimate Interests would be affected by the inclusion of that Affiliated Entity to such list.

The same shall apply for the addition of a new Affiliated Entity in Attachment 3 after the signature of the Implementation Agreement. If a Party objects to said addition within 15 calendar days of the receipt of such notice the objecting Party may refuse to grant Access Rights to said new Affiliated Entity of another Party.

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Party to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Party.

In the event of any change of control of an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse unless agreed otherwise by the owning Party.

⁵ Case specific , but at least 1 year`

Further arrangements with Affiliated Entities may be negotiated in separate agreements.

9.6 Additional Access Rights

Any grant of Access Rights not covered by any Relevant Grant Agreement or this Implementation Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

9.7 Access Rights for Parties entering or leaving the Implementation Agreement

9.7.1 New Parties entering the Implementation Agreement

All Results developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

9.7.2 Parties Leaving the Implementation Agreement

9.7.2.1 Access Rights granted to a leaving Party

9.7.2.2 Defaulting Party

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice to terminate its participation in this Implementation Agreement.

9.7.2 .3 Non-Defaulting Party

A Non-Defaulting Party leaving voluntarily shall have Access Rights to the Results developed until the date of the termination of its participation. The time-limit for its right to request these Access Rights shall start on the same date.

9.7.2.4 Access Rights to be granted by any leaving Party

Any Party leaving this Implementation Agreement with the consent of all other Parties to it, shall continue to grant Access Rights pursuant to the Relevant Grant Agreement and this Implementation Agreement as if it had remained a Party for the whole duration of the ITD/IADP Activities.

9.8 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software.

Parties' Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

9.9 Ownership and use of demonstrators

The Partner shall deliver Demonstrator parts to [the Topic Manager] and [the Topic Manager] will accept delivery of such parts on behalf of the CSJU as part of the Topic Manager role within the call and the implementation of the action. Each part integrated or added in the Demonstrator shall remain the property of the Party who has provided this part in the frame of the relevant Project implementation.

The location(s) of each Demonstrator shall be determined by the Topic Manager.

Notwithstanding any other provision, during the ITD/IADP Activities and for five years from the end of the ITD/IADP Activities, each Party agrees to grant to the Topic Manager a free of charge right of use of the relevant Demonstrator and its parts with the right to grant the same rights to third parties. Before the end of the five years period, the Parties may agree to allow the Topic Manager to continue to use the relevant Demonstrator on Fair and Reasonable conditions.

After the end of the agreed extended period, each Party may request the return of the parts of the Demonstrator(s) that it provided. If the relevant Party returns the concerned parts, the owner of any such part shall have no right to compensation for damages and loss suffered due to the damage, physical condition, serviceability of the parts.

Section 10: Non-disclosure of information

The Recipients hereby undertake, without prejudice to any commitment of non-disclosure under their Relevant Grant Agreement, for a period of ten (10) years after the end of the ITD/IADP Activities

Not to use or disclose Confidential Information of which it is the Recipient, otherwise than for the purpose for which it was disclosed;

Not to disclose Confidential Information to any third party, including subcontractors and Linked Third Parties without the prior written consent by the Disclosing Party;

To ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and

To return to the Disclosing Party on demand all Confidential Information which has been supplied to the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only. Recipients, which are public institutes may keep a copy of Confidential Information if and to the extent such information shall be kept according to mandatory laws and regulations".⁶

The Recipients shall be responsible for the fulfillment of the above obligations on the part of their employees, and sub-contractors and Linked Third Parties subject to prior explicit consent case by case as referred to above and shall ensure that their employees, and sub-contractors and Linked Third Parties remain so obliged, as far as legally possible, during and after the end of the ITD/IADP Activities and/or after the termination of employment or the relevant contract of engagement.

⁶ When country's of establishment of such institute internal legislation requires this option.

The above mentioned obligations of confidentiality shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

The Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;

The Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;

The Confidential Information is or has been communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;

The Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed as with its own confidential and/or proprietary information, but in no case less than reasonable care.

It is understood and acknowledged by the Parties that the disclosure of Confidential Information doesn't mean any transfer of or change in the ownership to such information.

Each Party shall promptly advise the other Party in writing of any unauthorized disclosure, misappropriation or misuse by any person of Confidential Information as soon as practicable after it becomes aware of such unauthorized disclosure, misappropriation or misuse.

If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure notify the Disclosing Party in sufficient time to allow the Disclosing Party to seek an order for protective relief, and comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.

The confidentiality obligations under this Implementation Agreement and the Relevant Grant Agreements shall not prevent the communication of Confidential Information to the CSJU, provided that the Disclosing Party is informed of such a communication beforehand and is given an opportunity to disclose it by itself to the CSJU and / or take every measure to control the extent of such a communication.

Section 11: Miscellaneous

11.1 Attachments and severability

This Implementation Agreement consists of this body text and:

Attachment 1: Background included

Attachment 2: Accession document

Attachment 3: Listed Affiliated Entities

Attachment 4: Initial list of Parties and other contact persons Attachment 5: List of Potential assignees

Attachment 6: Agreement for the loan of material/equipment

Attachment 7: Grant Agreement for Partners (copy)

Attachment 8: Linked Third Parties

In the case of conflicts between the Attachments and the core text of this Implementation Agreement, the latter shall prevail., with the exception of the Attachment 7, which is the Grant Agreement for Partners and which shall prevail over this Implementation Agreement.

Should any provision of this Implementation Agreement become invalid, illegal or unenforceable or conflict with any obligation of a Party to the CSJU under the Relevant Grant Agreement, it shall not affect the validity of the remaining provisions of this Implementation Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

11.2 No representation, partnership or agency

The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Implementation Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

11.3 Notices and other communication

Any notice to be given under this Implementation Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Topic Manage .

Notices required to be sent that are legal notices shall be addressed to a Party's Company Secretary (or equivalent officer) at the registered address or the address of the principal company headquarters, provided that such information is being communicated beforehand by the relevant Party..

Formal notices:

If it is required in this Implementation Agreement that a formal notice, consent or approval shall be given, such notice shall be signed by an authorized representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

Other communication:

Other Communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt (e.g. minutes).

Any change of persons or contact details shall be notified immediately by the respective Party to the Topic Manager. The address list shall be accessible to all Parties. The change of the contact persons list does not require the signature of an amendment of the Implementation Agreement by all Parties hereto.

11.4 Assignment and amendments

No rights or obligations of the Parties arising from this Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.

Amendments and modifications to the text of this Implementation Agreement require a separate written agreement duly signed between all Parties.

Except in cases of an addition to Attachment "Background Included", a withdrawal from Attachment "Affiliated Entities" or an amendment of Attachments or "Initial List of Representatives" to this Implementation Agreement, the simplified amendment process described below shall apply:

A Party requesting an addition to Attachment “Background Included”, a withdrawal from Attachment “Affiliated Entities” or an amendment of Attachments “Initial List of list of Parties and other contact persons” shall notify the Topic Manager about the change request. The Topic Manager will inform the other Parties of such change request and will edit an updated version of the modified Attachment and will distribute it to the Parties.

Any objection to such updated version should be made in writing to the Topic Manager and to the Party at the origin of the request within thirty (30) calendar days after receipt of the updated version. If no objection is made within the time limit stated above, the Topic Manager shall inform the Parties the updated version shall be considered as approved and applicable without further formalities.

11.5 Mandatory national law

The Parties recognize that at the time of signature of this Implementation Agreement, nothing in this Implementation Agreement requires a Party to breach any mandatory national law under which the Party is operating. To the extent any future mandatory law forbids or restricts any of the activities contemplated hereunder, the Parties agree to inform each other and discuss about the consequences thereof.

11.6 Language

This Implementation Agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.

11.7 Applicable law

This Implementation Agreement shall be construed in accordance with and governed by the laws of the Kingdom of Belgium.

11.8 Settlement of disputes

All disputes or claim arising out of or in connection with this Implementation Agreement, which cannot be solved amicably within 3 months from the date of the notification of the dispute by a the most diligent Party to the other Part(ies) concerned , may be submitted to settlement proceedings under the ICC ADR Rules. If the dispute has not been settled pursuant to the said Rules within ninety (90) days following the filing of a Request for ADR or within such other period as the Parties may agree in writing, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or three arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Brussels, Belgium.

The arbitral proceedings shall be conducted in English.

The award of the arbitration will be final and binding upon the Parties.

Nothing in this Implementation Agreement shall limit the Parties' right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

11.9 Force Majeure

No Party shall be considered to be in breach of this Implementation Agreement if such breach is caused by Force Majeure. Each Party will notify the Topic Manager and the other Parties of any Force Majeure as soon as possible. If the consequences of Force Majeure for the IADP/ITD are not overcome within six (6) weeks after such notification, the transfer of tasks, if any, shall be proposed by the Topic Manager to the CSJU in consultation with the affected Party(ies).

Section 12: Signatures

This Implementation Agreement may be executed in any number of counterparts. This has the same effect as if the signatures were on the same original of the agreement.

The Parties have caused this Implementation Agreement to be duly signed by the undersigned authorised representatives on the day and year first above written.

Signature(s)
Name(s)
Title(s)

Signature(s)
Name(s)
Title(s)

[add other Parties as required]

Attachment 1: Background included

Access Rights to Background made available to the Parties:

Name of the Party	
Owner	
Nature	
Registration / protection	
Description / Title	
Access conditions for carrying out the -IADP/ITD Activities/task under the ITD/IADP / Limitations	

Name of the Party	
Owner	
Nature	
Registration / protection	
Description / Title	
Access conditions for carrying out the - IADP/ITD Activities/task under the ITD/IADP // Limitations	

This represents the status at the time of signature of this Implementation Agreement.

Attachment 2: Accession document

ACCESSION

of an Additional Member to

Implementation Agreement, version [..., YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE GRANT AGREEMENT FOR MEMBERS]

being a private Member of the CSJU hereby consents to become a Party to the Implementation Agreement relating to the [insert title] IADP/ITD Activities, that it will comply with the terms of the said agreement and accepts all the rights and obligations of a Party there under in particular the terms of article 8 to 10 starting [date].

This accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE **ADDITIONAL MEMBER**]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE TOPIC MANAGER

Signature(s)

Name(s)

Title(s)

[Date and Place]

Attachment 3: Listed Affiliated Entities

Attachment 4: Initial list of Parties and other contact persons

Recipients for Notices in Accordance with Section 11 of this Implementation Agreement:

Attachment 5: List of potential assignees

Attachment 6: Agreement for the loan of material or equipment

Simple Letter Agreement for the Loan of every materials, tools and equipment (including, but not limited to, software and hardware) provided by a Party to another Party for the performance of their obligations under a Project of the [] ITD, at the exclusion of the parts and equipment of the Demonstrator(s) resulting from each Project.

In response to the RECIPIENT Party s request dated [] for the MATERIAL or EQUIPMENT [insert description] . . .(the “MATERIAL”) The PROVIDER Party asks that the RECIPIENT Party agree to the following before delivering the MATERIAL to the RECIPIENT Party :

The MATERIAL is and always remains the property of the PROVIDER Party and is made available in the frame of the [name of the -ITD] -ITD for the sole performance of the RECIPIENT Party 's tasks.

THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.

The MATERIAL shall always remain in the RECIPIENT Party's premises [] for the duration of the loan and will not be further provided to others without the PROVIDER Party's written consent.

The REECEIPIENT Party shall refer any request for the MATERIAL to the PROVIDER Party .

THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

Unless prohibited by law, RECIPIENT assumes all liability for claims for damage of the Material caused by it which is in its custody and for claims for damage against it by third parties which may arise from its use, storage or disposal of the MATERIAL except that, to the extent permitted by law, the PROVIDER Party shall be liable to the RECIPIENT Party when the damage is caused by it including for the gross negligence or wilful misconduct of the PROVIDER Party .

The RECIPIENT Party agrees to use the MATERIAL in compliance with all applicable statutes and regulations.

The MATERIAL is provided at no cost.
(Need to address (transportation costs, export authorization, risk transfer INCOTERMS) duration of the custody)

The PROVIDER Party, RECIPIENT Party must both sign 2 copies of this letter and each keeps one signed copy for their record

The PROVIDER Party will then send the MATERIAL.

PROVIDER Party INFORMATION and AUTHORISED SIGNATURE

Provider Scientist:
Provider Organisation:
Address:
Name of Authorised Official:
Title of Authorised Official:

Certification of Authorised Official: This Simple Letter Agreement ___has / ___has not [check one] been modified. If modified, the modifications are attached.

Signature of Authorised Official..... and Date ...

RECIPIENT Party INFORMATION and AUTHORISED SIGNATURE

Provider Scientist:

Provider Organisation:

Address:

Name of Authorised Official:

Title of Authorised Official:

Signature of Authorised Official:

Date:

Certification of Recipient: I have read and understood the conditions outlined in this Implementation Agreement and I agree to abide by them in the receipt and use of the MATERIAL.

Signature of Recipient... and Date...

