



**DECISION OF THE PUBLIC AUTHORITIES BOARD OF THE ECSEL
JOINT UNDERTAKING**

**Adopting the templates Administrative Agreements between the ECSEL
Participating States and the ECSEL Joint Undertaking based on Article
17.1 of the Statutes**

THE PUBLIC AUTHORITIES BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Statutes annexed to Council Regulation (EU) No 561/2014 of 6 May 2014 on the establishment of the ECSEL Joint Undertaking, and in particular Article 17(3) of the Statutes of the Regulation,

Having regard to the Decision of the Governing Board of the ECSEL Joint Undertaking of assigning to the Public Authorities Board the approval of the template Administrative Agreement between the Joint Undertaking and National Funding Authorities (decision ECSEL-GB-2014.05),

Whereas:

- (1) The agreements for the cooperation between the ECSEL Participating States and the ECSEL Joint Undertaking shall be established by means of an administrative agreement to be concluded between the entities designated by the ECSEL Participating States for that purpose and the ECSEL Joint Undertaking;
- (2) Agreements for the cooperation between the ECSEL Participating States and the ECSEL Joint Undertaking can take two forms, as defined in Article 17(1) and Article 17(2) of the Statutes of the ECSEL Joint Undertaking. Two templates Administrative Agreements should therefore be defined;
- (3) This decision concerns the model foreseen in Article 17(1), where an ECSEL Participating State entrusts the ECSEL Joint Undertaking with:
 - i. the implementation of its contributions to the participants in indirect actions through the grant agreements with participants concluded by the ECSEL Joint Undertaking, or
 - ii. the implementation and the payment of its contribution to the participants.

- (4) The Public Authorities Board should approve the templates Administrative Agreements to be signed between the ECSEL Participating States and the ECSEL Joint Undertaking;

HAS ADOPTED THIS DECISION:

Article 1

The templates Administrative Agreements based upon Article 17(1) of the Statutes annexed to Council Regulation 564/2014, between ECSEL Participating States and the ECSEL Joint Undertaking, as annexed to this Decision, are hereby approved.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 9 December 2014

For the Public Authorities Board



Ben Ruck
Chairperson of the Public Authorities Board

Annex 1: Template administrative Agreement with implementation only

Annex 2: Template administrative Agreement with implementation and payment

Annex 1:

Template Administrative Agreement in accordance with Article 17(1) of the Statutes where the Participating State entrust the implementation of its contribution to ECSEL JU

This Administrative Agreement ('hereinafter the Agreement') is between the following Parties:

On the one part,

The ECSEL Joint Undertaking ('hereinafter the ECSEL JU'), with seat in Avenue de la Toison d'Or / Guldenvlietlaan 56-60, 1160 Brussels, represented for the purposes of signing this Agreement by its Executive Director [forename and surname];

and

on the other part,

[full official name, ACRONYM], (hereinafter the '**National Funding Authority**' or the '**NFA**'), designated by [ECSEL Participating State] according to Article 2(2) of the Joint Undertaking's Statutes and acting on behalf of [ECSEL Participating State], [official legal status or form][official registration No] [official address in full][VAT number], represented for the purposes of signing this Agreement by [function, forename and surname]

(Hereinafter 'the Parties').

The Parties referred to above have agreed to enter into the Agreement under the terms and conditions below.

The Agreement is composed of the terms and conditions:

Chapter 1: General

Article 1 – Scope of the Agreement

Article 2 – Definitions

Article 3 – Entrusted tasks

Article 4 – Communications between the Parties

Chapter 2: Rights and obligations of the parties

Article 5– General obligation to properly implement the entrusted tasks

Article 6 - Use of verification of the eligibility of costs for payment

Article 7 – Programming

Article 8 – Reporting

Chapter 3: Termination

Article 9 – Termination of the Agreement

9.1. Termination due to winding up

9.2. Termination at the initiative of either party

9.3. Termination at the initiative of ECSEL JU

Chapter 4: Other rights and obligations

- Article 10 – General obligation to inform
- Article 11 – Liability
- Article 12 – Confidentiality
- Article 13 – Processing of personal data
- Article 14 – Audits and controls
- Article 15 – Applicable law and settlement of disputes
- Article 16 – Amendment to the Agreement
- Article 17 – Repeal and transitional provisions
- Article 18 – Entry into force of the Agreement

WHEREAS:

- 1) Council Regulation (EU) No 561/2014 of 6/05/2014 establishing the ECSEL Joint Undertaking (hereinafter Regulation (EU) No 561/2014 establishing ECSEL JU) foresees that ECSEL Joint Undertaking should provide financial support to participants in indirect actions, following open and competitive calls for proposals,
- 2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council establishing the Framework Programme for Research and Innovation "Horizon 2020" may be implemented through public-private partnerships where all the partners concerned commit to supporting the development and implementation of research and of innovation activities,
- 3) The evaluation and selection procedures related to Calls for Proposals, as approved by ECSEL Public Authorities Board, govern the steps followed by the ECSEL JU related to the Calls for proposals, the procedures for evaluation and selection of proposals, the allocation of public funding following such Calls, and the subsequent establishment of grant agreements with beneficiaries,
- 4) Regulation (EU) No 561/2014 establishing ECSEL JU foresees that ECSEL Participating States designate the national funding authority or authorities (NFAs) responsible for fulfilling the obligations related to the activities of the ECSEL JU.
- 5) Regulation (EU) No 561/2014 establishing ECSEL JU foresees that the Agreement for the cooperation between the ECSEL Participating States and the ECSEL JU is established by means of an Administrative Agreement to be concluded between the entity(ies) designated by the ECSEL Participating States for that purpose and the ECSEL JU,
- 6) [EPS name] has designated [name of NFA] as national funding authority;
- 7) According to Article 17.1 of the Statutes , ECSEL Participating State which has opted to entrust ECSEL JU with the implementation of their contribution to the participants in indirect actions may make the payments themselves based on the verifications made by ECSEL Joint Undertaking ,

Chapter 1: General

Article 1 – Scope of the Agreement

- 1.1. The Agreement defines the rights and obligations of the Parties with regards to the contributions of [ECSEL Participating State] to participants in indirect actions supported by ECSEL JU.

- 1.2. By signing the Agreement, the NFA accepts that the implementation of the contributions of [ECSEL Participating State] to the Participants in indirect actions supported by ECSEL JU are delegated to ECSEL JU (hereinafter 'the entrusted tasks'), and ECSEL JU accepts the delegation and agrees to carry out the entrusted tasks in accordance with the Agreement.
- 1.3. The Agreement shall not involve the exchange of funds between the Parties nor shall it establish any obligation on the part of either party to make any payment to the other party. The obligation to make payments of the NFA's contribution to participants remains the sole responsibility of the NFA.

Article 2 – Definitions

- 2.1. For the purpose of the Agreement, the following definitions shall apply:
 1. "ECSEL Governing Board" (hereinafter "the Governing Board") means the body of the ECSEL JU as referred to in Articles 4(a), 5, 6 and 7 of the Statutes annexed to Regulation 561/2014 establishing ECSEL JU;
 2. "ECSEL Public Authorities Board" (hereinafter "the Public Authorities Board") means the body of the ECSEL JU as referred to in Articles 4 (c), 10, 11 and 12 of the Statutes annexed to Regulation 561/2014 establishing ECSEL JU;
 3. "Indirect actions" mean research and innovation activities to which ECSEL JU and the NFA provide financial support and which are undertaken by participants;
 4. "Participant" means any legal entity carrying out an action or part of an action having rights and obligations with regard to ECSEL JU under an ECSEL JU Grant Agreement ;
 5. "ECSEL JU Grant Agreement" means the grant agreement signed between the ECSEL JU and the participants in indirect actions.

Article 3 – Entrusted tasks

- 3.1. The NFA entrusts the ECSEL JU with the implementation of the contribution of [ECSEL Participating State] through grants to participants. For this purpose, it entrusts the ECSEL JU with:
 - preparing the annual work plan for grants taking account of the estimated contribution communicated in accordance with Article 7;
 - managing all phases of the lifecycle of grants supporting indirect actions;
 - defining and making any necessary adjustments to the multiannual strategic plan;
 - drawing up and implementing work plans for executing the multiannual strategic plan;
 - initiating open calls for proposals, evaluating proposals, and awarding funding to indirect actions through open and transparent procedures within the limits of available funds;
 - publishing information on the indirect actions;
 - monitoring the implementation of the indirect actions and managing the grant agreements or decisions;
 - monitoring overall progress towards achieving the objectives of the ECSEL JU.
- 3.2. The entrusted tasks shall be carried out from the entry into force of this Agreement until 31 December 2024.

Article 4 – Communications between the Parties

- 4.1. Any communication relating to the Agreement shall be made by email, using the following addresses:

For the ECSEL JU

Andreas Wild, Executive Director

Andreas.Wild@ecsel.europa.eu

For the national funding authority

Contact person(s):

E-mail address(es):

- 4.2. Electronic communications shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.
- 4.3. Any communication is deemed to have been made when it is received by the receiving party. Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.

Chapter 2: Rights and obligations of the parties

Article 5– General obligation to properly implement the entrusted tasks

- 5.1. ECSEL JU shall implement the entrusted tasks in compliance with the provisions of the Agreement and all legal obligations under applicable EU and national law (in particular with Regulation 561/2014 establishing ECSEL JU, the Rules for Participation Regulation (EU) No 1290/2013 and the principles of sound financial management, transparency and non-discrimination).

It shall in particular apply the same rules and procedures for the implementation of the entrusted tasks as apply to the tasks entrusted by the European Union to ECSEL JU, in particular with regards to:

- a. rules and procedures for giving grants;
- b. ex-post controls on the participants;
- c. recovery from the participants.

Article 6 - Use of verification of the eligibility of costs for payment

- 6.1 The ECSEL JU shall make available to the NFA the verification of the eligibility of costs which the NFA shall use as part of its own payment process.
- 6.2 Upon notification of the ECSEL JU of the outcome of the costs' eligibility verification, the [NFA] agrees to make payments of its contribution to the participants without delay.
- 6.3 The Parties hereby agree to communicate to one another details about the final financial completion of indirect actions as well as:
 - a. the date of signature of the ECSEL JU grant agreement including, where relevant, the amount of national/EU funding and the start date of the action and the period of those agreements;
 - b. any amendment/termination of the ECSEL JU grant agreement including the change of parties in those agreements;
 - c. any breach of the ECSEL JU grant agreement.
- 6.4. If the ECSEL JU grant agreement is subject to a right to repayment, documents relevant to exercising that right (e.g. agreements and payment records) shall be kept by the JU for the period of possible recovery, in accordance with applicable European or national laws.

Article 7 – Programming

- 7.1. Within 30 days following a request of the ECSEL JU Executive Director and at the latest by 31 January of the year preceding the year of budget implementation, [the NFA] shall communicate the following elements to ECSEL JU for their inclusion in the draft budget or work plan:
 - a. The estimate of contribution for the next year(s) covered by the work plan,
 - b. The specific criteria regarding the eligibility of individual applicants to receive national funding, if any,
 - c. The reimbursement rate of the eligible costs to be used (if relevant, by category of participants and/or by type of action) for national funding.

Article 8 – Reporting

- 8.1. The NFA may not impose on participants additional reporting requirements other than those required by the ECSEL Joint Undertaking.
- 8.2. The reports submitted by participants and approved by the ECSEL JU shall be made available by ECSEL JU to [the NFA] within 30 days after their approval.
- 8.3. The ECSEL JU shall comply with the reporting requirements under its Financial Rules, in particular the annual activity report (see Article 20 of the Financial Rules).

Chapter 3: Termination

Article 9 – Termination of the Agreement

9.1. Termination due to winding up

The Agreement shall be automatically terminated if the ECSEL JU is wound up in accordance with Article 26 of the Statutes annexed to the Regulation No 561/2014 establishing the ECSEL JU.

9.2. Termination at the initiative of either party

If either Party believes that the Agreement can no longer be effectively or appropriately carried out, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement by formally notifying the other Party thereof. Termination shall take effect 60 days from receipt of the notification, unless agreed otherwise by the Parties.

However, the Parties undertake to honour the legal obligations arising from the implementation of the Agreement whose entry into force precedes the date on which the termination of the Agreement takes effect.

9.3. Termination at the initiative of ECSEL JU

The ECSEL JU may terminate the Agreement if the NFA does not pay its contribution to participants, pays it only partially or pays it late.

Chapter 4: Other rights and obligations

Article 10 – General obligation to inform

The Parties shall provide any information requested by each other, in order to verify compliance with the obligations under the Agreement, or the legal obligations under applicable EU and national law.

Article 11 – Liability

The ECSEL JU cannot be held liable for any damage caused to the [NFA] or to third parties as a consequence of implementing the Agreement, including for gross negligence.

The NFA cannot be held liable for any damage caused by the ECSEL JU or third parties involved in the implementation of the entrusted tasks, as a consequence of implementing the Agreement.

Article 12 – Confidentiality

The Parties shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the implementation of the entrusted tasks and which are explicitly indicated in writing as confidential.

The Parties shall not use confidential information and documents for any reason other than fulfilling the obligations under the Agreement, unless otherwise foreseen in writing.

The Parties shall be bound by the obligation referred to in the above paragraph during the implementation of the Agreement and for a period of five years starting from the date of its termination, unless:

- a. the concerned Party agrees to release the other Party from the confidentiality obligations earlier;
- b. the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the Party bound by that obligation;
- c. the disclosure of the confidential information is required by law.

Article 13 – Processing of personal data

Where the implementation of the entrusted tasks requires the processing of personal data by the ECSEL JU, it shall be processed by the ECSEL JU pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Such data shall be processed by the following data controller: ECSEL JU Executive Director, solely for the purposes of the implementation, management and monitoring of the Agreement, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of the applicable rules.

Where the implementation of the entrusted tasks requires the processing of personal data by the NFA, it shall be processed in compliance with applicable national law on data protection.

Article 14 – Audits and controls

Both parties shall ensure the exercise of the control rights of the European Commission, the European Anti-Fraud Office and the Court of Auditors according to Article 14§3 of Council Regulation (EU) No 561/2014 with respect to this agreement.

Article 15 – Applicable law and settlement of disputes

The Agreement is governed by Union law complemented, where necessary, by the law of Belgium.

The parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or validity of the Agreement. Any dispute which cannot be settled amicably shall be submitted to the jurisdiction of the General Court or, on appeal, the Court of Justice of the European Union

Nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities which are accorded to ECSEL JU by its constituent act.

Article 16 – Amendment to the Agreement

The Agreement may be amended at any time by the mutual written consent of the Parties. Any amendment to the Agreement shall be made in writing.

Any request for amendment shall be duly justified and shall be sent to the other Party in due time before it is due to take effect, except in cases duly substantiated by the Party requesting the amendment and accepted by the other Party.

Amendments shall enter into force on the date on which the last Party signs or on the date of approval of the request for amendment. Amendments shall take effect on a date agreed by the Parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

Article 17 – Repeal and transitional provisions

Actions initiated under similar agreements concluded between the Parties before entering into the Agreement shall continue to be governed by those agreements until their completion.

Article 18 – Entry into force of the Agreement

The Agreement shall enter into force on the date on which the last Party signs.

SIGNATURES

For ECSEL Joint Undertaking,

For the NFA,

Andreas Wild, Executive Director

[insert name, surname, function]

(signature)

(signature)

Done at Brussels, [date]

Done at [xxxx], [date]

In duplicate in English

Annex 2:

Template Administrative Agreement in accordance with Article 17(1) of the Statutes, where the Participating State entrusts both the implementation and the payment of its contribution to ECSEL JU

This Administrative Agreement (hereinafter 'the Agreement') is between the following Parties:

On the one part,

The **ECSEL Joint Undertaking** (hereinafter the 'ECSEL JU'), with seat in Avenue de la Toison d'Or/ Guldenvlieslaan 56-60, 1160 Brussels, represented for the purposes of signing this Agreement by its Executive Director [forename and surname];

and

on the other part,

[full official name, ACRONYM], (hereinafter the '**National Funding Authority**' or the '**NFA**'), designated by [ECSEL Participating State] according to Article 2(2) of the Joint Undertaking's Statutes and acting on behalf of [ECSEL Participating State], [official legal status or form][official registration No] [official address in full][VAT number], represented for the purposes of signing this Agreement by [function, forename and surname]

(Hereinafter 'the Parties').

The Parties referred to above have agreed to enter into the Agreement under the terms and conditions below.

The Agreement is composed of the terms and conditions:

Chapter 1: General

Article 1– Scope of the Agreement

Article 2 – Definitions

Article 3 – Entrusted tasks

Article 4 – Entrusted contribution

Article 5 – Communications between the Parties

Chapter 2: Rights and obligations of the parties

Section 1: Rights and obligations related to the implementation of the entrusted tasks

Article 6 – General obligations to properly implement the entrusted tasks

Section 2: Rights and obligations related to the entrusted contributions

Article 7 – Programming

Article 8 – Reporting

Article 9 - Requests for payment and payment arrangements of the entrusted contribution

- 9.1. Requests for payment
- 9.2. Payments to be made
- 9.3. Payment deadline
- 9.4. Date of payment
- 9.5. Currency for payments
- 9.6. Bank account
- 9.7. Late-payment interest
- 9.10. Assignment of claims for payments to the Commission

Chapter 3: Recovery – Suspension - Termination

Article 10 – Recovery by the NFA

Article 11 – Suspension of payments

Article 12 – Termination of the Agreement and of the Transfer of Funds Agreements

- 12.1. Termination due to winding up
- 12.2. Termination at the initiative of either party
- 12.3. Termination at the initiative of ECSEL JU

Chapter 4: Other rights and obligations

Article 13 – General obligation to inform

Article 14 – Liability

Article 15 – Confidentiality

Article 16 – Processing of personal data

Article 17 – Audits and controls

Article 19 – Applicable law and settlement of disputes

Article 20 – Interpretation of the Agreement and of the Transfer of Funds Agreement

Article 21 – Amendment to the Agreement

Article 22 – Repeal and transitional provisions

Article 23 – Entry into force of the Agreement

Annex – Model Transfer of funds agreement.

WHEREAS:

- 1) Council Regulation (EU) No 561/2014 of 6/05/2014 establishing the 'ECSEL Joint Undertaking'¹ (hereinafter Regulation (EU) No 561/2014 establishing ECSEL JU) foresees that ECSEL Joint Undertaking should provide financial support to participants in indirect actions, following open and competitive calls for proposals,
- 2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council establishing the Framework Programme for Research and Innovation "Horizon 2020" may be implemented through public-private partnerships where all the partners concerned commit to supporting the development and implementation of research and of innovation activities,
- 3) The evaluation and selection procedures related to Calls for Proposals, as approved by ECSEL Public Authorities Board, govern the steps followed by the ECSEL JU related to the Calls for proposals, the procedures for evaluation and selection of proposals, the allocation of public funding following such Calls, and the subsequent establishment of grant agreements with beneficiaries,

- 4) Regulation (EU) No 561/2014 establishing ECSEL JU foresees that ECSEL Participating States designate the national funding authority or authorities (NFAs) responsible for fulfilling the obligations related to the activities of the ECSEL JU,
- 5) Regulation (EU) No 561/2014 establishing ECSEL JU foresees that the Agreement for the cooperation between the ECSEL Participating States and the ECSEL JU is established by means of an Administrative Agreement to be concluded between the entity(ies) designated by the ECSEL Participating States for that purpose and the ECSEL JU,
- 6) [EPS name] has designated [name of NFA] as national funding authority,
- 7) According to Article 17.1 of the Statutes annexed to the Regulation (EU) No 561/2014 establishing ECSEL, ECSEL participating States may entrust the ECSEL Joint Undertaking with the implementation and payment of their contributions to the participants in indirect actions through the grant agreements with participants concluded by ECSEL Joint Undertaking,
- 8) According to Article 17.4 of the Statutes, when the ECSEL Participating State opts for Article 17.1, the Administrative arrangements shall be supplemented with annual agreements ('Transfer of funds agreement'), laying down the conditions for the financial contribution of the ECSEL Participating State to the ECSEL Joint Undertaking.

Chapter 1: General

Article 1– Scope of the Agreement

- 1.1. The Agreement defines the rights and obligations of the Parties with regards to the contributions of [ECSEL Participating State] to the participants in indirect actions supported by ECSEL JU.
- 1.2. By signing the Agreement, the NFA accepts that the implementation and the payment of the contributions of [ECSEL Participating State] to the Participants in indirect actions supported by ECSEL JU ('entrusted contributions') are delegated to ECSEL JU (hereinafter 'the entrusted tasks'), and ECSEL JU accepts the delegation and agrees to carry out the entrusted tasks in accordance with the Agreement.

Article 2 – Definitions

- 2.1. For the purpose of the Agreement, the following definitions shall apply:
 1. “ECSEL Governing Board” (hereinafter “the Governing Board”) means the body of the ECSEL JU as referred to in Articles 4(a), 5, 6 and 7 of the Statutes annexed to Regulation 561/2014 establishing ECSEL JU;
 2. “ECSEL Public Authorities Board” (hereinafter “the Public Authorities Board”) means the body of the ECSEL JU as referred to in Articles 4(c), 10, 11 and 12 of the Statutes annexed to Regulation 561/2014 establishing ECSEL JU;
 3. “Indirect actions” mean research and innovation activities to which ECSEL JU provides financial support and which are undertaken by participants;
 4. “Participant” means any legal entity carrying out an action or part of an action having rights and obligations with regard to ECSEL JU under an ECSEL JU Grant Agreement ;

5. "ECSEL JU Grant Agreement" means the grant agreement signed between the ECSEL JU and the participants in indirect actions;
6. "Transfer of funds agreement" means the agreement between the NFA and the ECSEL JU laying down the terms and conditions for the financial contribution of the ECSEL Participating State to the ECSEL JU for a given year.

Article 3 – Entrusted tasks

- 3.1. The NFA entrusts the ECSEL JU with the implementation and the payment of the contribution of [ECSEL Participating State] through grants to participants. For this purpose, it entrusts the ECSEL JU with:
 - preparing the annual work plan for grants taking account of the estimated contribution communicated in accordance with Article 7;
 - supporting financially research and innovation indirect actions, mainly in the form of grants,
 - managing all phases of the lifecycle of grants supporting indirect actions.
 - implementing the tasks related to the operations of the Participants Guarantee Fund (PGF) for all the grants awarded by the ECSEL JU, according to the rules set out in the Rules for Participation and the Commission Decision on the financial management of the Participants Guarantee Fund C (2013) 9092, that establishes that the Executive Director of the ECSEL JU as the Authorising Officer (AO) will be responsible:
 - for retaining, from each initial pre-financing, 5% of the maximum grant amount provided for in the grant agreement and for transferring this amount from their specific account to the PGF;
 - for returning PGF contributions to beneficiaries, for PGF interventions and for receipts.
 - defining and making any necessary adjustments to the multiannual strategic plan;
 - drawing up and implementing work plans for executing the multiannual strategic plan;
 - initiating open calls for proposals, evaluating proposals, and awarding funding to indirect actions through open and transparent procedures within the limits of available funds;
 - publishing information on the indirect actions;
 - monitoring the implementation of the indirect actions and managing the grant agreements or decisions;
 - monitoring overall progress towards achieving the objectives of the ECSEL JU.
- 3.2. The tasks to be carried out each year shall be subject to a Transfer of Funds Agreement (see Annex), to be concluded between the NFA and ECSEL JU.
- 3.3. The entrusted tasks shall be carried out from the entry into force of this Agreement until 31 December 2024.
- 3.4. The starting date and the duration of the entrusted tasks to be carried out each year shall be set out in the Transfer of Funds Agreements (see Annex).

Article 4 – Entrusted contribution

- 4.1. The maximum amount of the contribution of [ECSEL Participating State] for the implementation of the entrusted tasks to be carried out each year shall be set out in the Transfer of Funds Agreement (see Annex).
- 4.2. The contribution of [ECSEL Participating State] shall be used solely for the purpose of the implementation of the Agreement.

Article 5 – Communications between the Parties

- 5.1. Any communication relating to the Agreement shall be made by email, using the following addresses:

For the ECSEL JU
Andreas Wild, Executive Director
Andreas.Wild@ecsel.europa.eu

For the national funding authority
Contact person(s):
E-mail address(es):

- 5.2. Electronic communications shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.
- 5.3. Any communication is deemed to have been made when it is received by the receiving party. Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.

Chapter 2: Rights and obligations of the parties

Section 1: Rights and obligations related to the implementation of the entrusted tasks

Article 6 – General obligations to properly implement the entrusted tasks

- 6.1. ECSEL JU shall implement the entrusted tasks in compliance with the provisions of the Agreement and the Transfer of Funds Agreements and all legal obligations under applicable EU and national law (in particular with Regulation 561/2014 establishing ECSEL JU, the Rules

for Participation Regulation (EU) No 1290/2013 and the principles of sound financial management, transparency and non-discrimination).

It shall in particular apply the same rules and procedures for the implementation of the entrusted tasks as apply to the tasks entrusted by the European Union to ECSEL JU, in particular with regards to:

- a. rules and procedures for giving grants;
- b. ex-post controls on the participants;
- c. recovery from the participants.

Section 2: Rights and obligations related to the entrusted contributions

Article 7 – Programming

- 7.1. Within 30 days following a request of the ECSEL JU Executive Director and at the latest by 31 January of the year preceding the year of budget implementation, [the NFA] shall communicate the following elements to ECSEL JU for their inclusion in the draft budget or work plan:
 - d. The estimate of the entrusted contribution(s) for the next year(s) covered by the work plan,
 - e. The specific criteria regarding the eligibility of individual applicants to receive national funding, if any,
 - f. The reimbursement rate of the eligible costs to be used (if relevant, by category of participants and/or by type of action).

Article 8 – Reporting

- 8.1. The NFA may not impose on participants additional reporting requirements other than those required by the ECSEL Joint Undertaking
- 8.2. The reports submitted by participants and approved by ECSEL JU shall be made available by ECSEL JU to the NFA within 30 days after their approval.
- 8.3. The ECSEL JU shall comply with the reporting requirements under its Financial Rules, in particular the annual activity report (see Article 20 of the Financial Rules).

Article 9 - Requests for payment and payment arrangements of the entrusted contribution

9.1. Requests for payment

The payment of the NFA contribution shall be based on a payment request by ECSEL JU which shall include:

- a cash-flow forecast for operational costs, covering the period of the payment request;
- a management declaration confirming that its cash-balances are limited to duly justified requirements and that the previous payments have been committed and there is no surplus.

The requests for payments shall be submitted in euro.

9.2. Payments to be made

The ECSEL JU shall comply with the principle of rigorous cash management, in order to ensure that its cash-balances are limited to duly justified requirements.

Accordingly, payments shall be made on the basis of the cash-flow forecast, in up to four instalments.

9.3. Payment deadline

The payment deadline is set out in the Transfer of Funds Agreements.

9.4. Date of payment

Payments made by the NFA shall be deemed to be effected on the date when they are debited to the ECSEL JU's account.

9.5. Currency for payments

Payments shall be made by the NFA in euro.

9.6. Bank account

All payments shall be made to the bank account of the ECSEL JU as indicated below:

Name of bank: [...]

Address of branch: [...]

Precise denomination of the account holder: [...]

Full account number (including bank codes): [...]

IBAN code: [...]

9.7. Late-payment interest

If the NFA does not pay within the payment deadline set out in the Transfer of Funds Agreements (see Annex), the ECSEL JU is entitled to late-payment interest at the rate applied by the European Central Bank (ECB) for its main refinancing operations in euro ('the reference rate'), plus three and a half points. The reference rate is the rate in force on the first day of the month in which the payment deadline expires, as published in the C series of the Official Journal of the European EU.

If the late-payment interest is lower than or equal to EUR 200, it will be paid to the ECSEL JU only upon request submitted within two months of receiving the late payment.

Suspension of payments in accordance with Article 11 shall not be considered as late payment.

Late-payment interest covers the period running from the day following the due date for payment up to and including the date of payment.

9.10. Assignment of claims for payments to the Commission

If the NFA does not pay within the payment deadline set out in the Transfer of Funds Agreements (see Annex), the ECSEL JU may assign the claims for payments of the ECSEL JU against the [NFA]/ECSEL Participating State to the European Commission.

The assignment shall be enforceable against the [NFA]/ECSEL Participating State upon the notification sent by the ECSEL JU according to Article 5. The ECSEL JU shall notify the NFA within 15 days of the day it becomes aware of the Commission's acceptance of the assignment.

Assignment shall not release the [NFA]/ECSEL Participating State from any other obligations arising from the Agreement not covered by the assignment.

Chapter 3: Recovery – Suspension - Termination

Article 10 – Recovery by the NFA

If any amount is to be recovered by the NFA because it is not due to ECSEL JU under the terms of this Agreement or a Transfer of Funds Agreement, ECSEL JU shall repay the NFA the amount in question.

Article 11 – Suspension of payments

The NFA may suspend payments:

- a) if it has evidence that the ECSEL JU has committed substantial errors, irregularities or fraud during the implementation of the entrusted contribution, or if the ECSEL JU fails to comply with its obligations under the Agreement or a Transfer of Funds Agreement;
- b) if it has evidence that the ECSEL JU has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this Agreement, a Transfer of Funds Agreement or other agreements funded by EU funds, which call into question the reliability of its internal control system or the legality and regularity of the underlying expenditure;
- c) if it suspects substantial errors, irregularities, fraud or breach of obligations committed by the ECSEL JU in the implementation of the entrusted contribution and needs to check whether they have occurred.

Before suspending payments, the [NFA] shall formally notify the ECSEL JU of its intention to suspend payments, specifying the reasons thereof and invite the ECSEL JU to make any observations within 30 calendar days from receipt of the notification.

If, after examination of the observations submitted by the ECSEL JU, the [NFA] decides to stop the procedure, the [NFA] shall formally notify the ECSEL JU thereof.

If no observations have been submitted or if, despite the observations submitted by the ECSEL JU, the [NFA] decides to pursue the procedure of payment suspension, it will confirm the suspension.

The suspension of payments shall take effect on the date when the notification is sent by the [NFA].

During the period of suspension of payments and without prejudice to the right to terminate the Agreement in accordance with Article 12, the ECSEL JU is not entitled to submit any requests for payments referred to in Article 9.1. Requests for payments may again be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments.

Article 12 – Termination of the Agreement and of the Transfer of Funds Agreements

12.1. Termination due to winding up

The Agreement and the Transfer of Funds Agreements shall be automatically terminated if the ECSEL JU is wound up in accordance with Article 26 of the Statutes annexed to the Regulation No 561/2014 establishing the ECSEL JU.

12.2. Termination at the initiative of either party

If either Party believes that the Agreement or a Transfer of Funds Agreement can no longer be effectively or appropriately carried out, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement or a Transfer of Funds Agreement by formally notifying the other Party thereof. Termination shall take effect 60 days from receipt of the notification, unless agreed otherwise by the Parties.

However, the Parties undertake to honour the legal obligations arising from the implementation of the Agreement or of the Transfer of Funds Agreement whose entry into force precedes the date on which the termination of the Agreement or of the Transfer of Funds Agreement takes effect.

12.3. Termination at the initiative of ECSEL JU

The ECSEL JU may terminate the Agreement if the NFA does not pay the entrusted contribution, pays it only partially or pays it late.

Chapter 4: Other rights and obligations

Article 13 – General obligation to inform

The Parties shall provide any information requested by each other, in order to verify compliance with the obligations under the Agreement, the Transfer of Funds Agreement or the legal obligations under applicable EU and national law.

Article 14 – Liability

The ECSEL JU cannot be held liable for any damage caused to the NFA or to third parties as a consequence of implementing the Agreement or a Transfer of Funds Agreement, including for gross negligence.

The ECSEL JU cannot be held liable for any damage caused by the ECSEL JU or third parties involved in the implementation of the entrusted tasks, as a consequence of implementing the Agreement or a Transfer of Funds Agreement.

Article 15 – Confidentiality

The Parties shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the implementation of the entrusted tasks and which are explicitly indicated in writing as confidential.

The Parties shall not use confidential information and documents for any reason other than fulfilling the obligations under the Agreement, unless otherwise foreseen in writing.

The Parties shall be bound by the obligation referred to in the above paragraph during the implementation of the Agreement and for a period of five years starting from the date of its termination, unless:

- d. the concerned Party agrees to release the other Party from the confidentiality obligations earlier;
- e. the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the Party bound by that obligation;
- f. the disclosure of the confidential information is required by law.

Article 16 – Processing of personal data

Where the implementation of the entrusted tasks requires the processing of personal data by ECSEL JU, it shall be processed by ECSEL JU pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Such data shall be processed by the following data controller: ECSEL JU Executive Director, solely for the purposes of the implementation, management and monitoring of the Agreement, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of the applicable rules.

Where the implementation of the entrusted tasks requires the processing of personal data by the NFA, it shall be processed in compliance with applicable national law on data protection.

Article 17 – Audits and controls

Both parties shall ensure the exercise of the control rights of the European Commission, the European Anti-Fraud Office and the Court of Auditors according to Article 14§3 of Council Regulation (EU) No 561/2014 with respect to this agreement.

Article 19 – Applicable law and settlement of disputes

The Agreement and the Transfer of Funds Agreements are governed by Union law complemented, where necessary, by the law of Belgium.

The parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or validity of the Agreement and of the Transfer of Funds Agreements. Any dispute which cannot be settled amicably shall be submitted to the jurisdiction of the General Court or, on appeal, the Court of Justice of the European Union

Nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities which are accorded to ECSEL JU by its constituent act.

Article 20 – Interpretation of the Agreement and of the Transfer of Funds Agreement

The provisions in the Terms and Condition of the Administrative Agreement take precedence over its Annexes.

This Agreement shall also apply to any Transfer of Funds Agreement concluded between the parties pursuant to this Agreement.

The provisions in the Terms and Conditions of the Transfer of Funds Agreements shall take precedence over those of Administrative Agreement.

Article 21 – Amendment to the Agreement

The Agreement may be amended at any time by the mutual written consent of the Parties. Any amendment to the Agreement shall be made in writing.

Any request for amendment shall be duly justified and shall be sent to the other Party in due time before it is due to take effect, except in cases duly substantiated by the Party requesting the amendment and accepted by the other Party.

Amendments shall enter into force on the date on which the last Party signs or on the date of approval of the request for amendment. Amendments shall take effect on a date agreed by the Parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

Article 22 – Repeal and transitional provisions

Actions initiated under similar agreements concluded between the Parties before entering into the Agreement shall continue to be governed by those agreements until their completion.

Article 23 - Entry into force of the Agreement

The Agreement shall enter into force on the date on which the last Party signs.

SIGNATURES

For ECSEL Joint Undertaking,

For the NFA,

Andreas Wild, Executive Director

[insert name, surname, function]

(signature)

(signature)

Done at Brussels, [date]

Done at [xxxx], [date]

In duplicate in English

ANNEX – MODEL TRANSFER OF FUNDS AGREEMENT

Administrative agreement number: [insert number] — ECSEL Joint Undertaking
[insert year]

This **Transfer of Funds Agreement** is between the following Parties:

On the one part,

The ECSEL Joint Undertaking (hereinafter 'the ECSEL JU'), with seat in 56-60 avenue de la Toison d'Or/Guldenvlieslaan, 1160 Brussels, represented for the purposes of signing this Agreement by its Executive Director [forename and surname];

And

on the other part,

[full official name, ACRONYM], hereinafter the National Funding Authority (NFA), designated by [ECSEL Participating State] according to Article 2(2) of the Joint Undertaking's Statutes and acting on behalf of [ECSEL Participating State], [official legal status or form][official registration No] [official address in full][VAT number], represented for the purposes of signing this Agreement by [function, forename and surname]

(Hereinafter 'the Parties').

The Parties referred to above have agreed to enter into the Agreement under the terms and conditions below.

By signing this Transfer of Funds Agreement, ECSEL JU agrees to carry out, under its own responsibility, the tasks as set out in Article 2 in accordance with the Administrative Agreement [insert number] and the Transfer of Funds Agreement.

The Transfer of Funds Agreement is composed of:

Terms and Conditions

Article 1 — Subject of the Transfer of Funds Agreement

Article 2 — Tasks to be carried out

Article 3 — Duration and starting date of the tasks to be carried out

Article 4 — [NFA] Financial contribution

Article 5 — Payment deadline

Article 6 — Entry into force of the Transfer of Funds Agreement

TERMS AND CONDITIONS

Article 1 — Subject of the Transfer of Funds Agreement

This Agreement sets out the entrusted tasks to be carried out under the Administrative Agreement No [insert number], by the ECSEL JU, for the year [insert year], and the financial contribution of [ECSEL Participating State] to be paid.

Article 2 — Tasks to be carried out

The entrusted tasks that must be carried out are described in the '[annual] work plan' of ECSEL JU, as adopted by the Governing Board by decision No [insert reference of the adopted annual or multiannual work plan] of [insert date] — as last amended.

Article 3 — Duration and starting date of the tasks to be carried out

The entrusted tasks shall be carried within a period of 12 months as of 1 January [insert year].

Article 4 — Financial contribution of [ECSEL Participating State]

The maximum amount of the contribution of [ECSEL Participating State] for the implementation of the entrusted tasks under this Transfer of Funds Agreement is EUR [insert amount].

Article 5 — Payment deadline

The payments shall be made to the ECSEL JU within 30 days of receipt of a payment request, except if the payments are suspended in accordance with Article 17 of the Administrative Agreement.

Article 6 — Entry into force of the Transfer of Funds Agreement

This Transfer of Funds Agreement shall enter into force on the date on which the last party signs it.

SIGNATURES

For ECSEL Joint Undertaking,

For the NFA,

Andreas Wild, Executive Director

[insert name, surname, function]

(signature)

(signature)

Done at Brussels, [date]

Done at [xxxx], [date]

In duplicate in English