



Hosting Agreement

No.xx/xxx

*Hosting Consortium
for PL5*

The present Hosting Agreement is concluded between the following parties:

The Chips Joint Undertaking, represented for the purposes of signature of this agreement by its Executive Director, Jari Kinaret, on the one part, and

the Hosting Consortium consisting of [*partners of the consortium*]
represented by

the "coordinator", [*name of the coordinator*], representing the Hosting Consortium

duly represented for the signature of this agreement by its

[*name of the authorised representative*] on the other part,

HAVE AGREED

to the **terms and conditions** set out below and the following annexes:

Annex I. Service Level Agreement

Annex II. Description of Action

Annex III. Summary table of financing of the Pilot Line (Confidential)

Annex IV. List of crucial pieces of equipment including retroactive equipment (Confidential)

which form an integral part of the present Hosting Agreement (hereinafter referred to as “Agreement”).

CONTENTS

General Framework	4
CHAPTER 1	5
Article 1 - Subject matter	6
Article 2 - Definitions	6
CHAPTER 2	9
Article 3 - General Obligations of the Hosting Consortium	9
Article 4 - General Obligations of the Chips Joint Undertaking	10
Article 5 - Obligations of the Parties during the acquisition procedure	10
Article 6 - Obligations of the Parties during the performance of the Agreement	11

Article 7 - Delivery and installation of the Chips JU pilot line.....	11
Article 8 - Acceptance of the equipment for the Chips JU pilot line	11
Article 9 - Operations	12
Article 10 - End of the operations or transfer of ownership of the Chips JU pilot line/ Depreciation and Residual Value	12
Article 11 - Conflict of Interest	12
Article 12 - Confidentiality obligation and non-disclosure.....	13
Article 13 - Processing of personal data by the Chips Joint Undertaking	13
Article 14 - Processing of personal data by the Hosting Consortium.....	14
Article 15 - Information on JU funding and support from Participating States – Obligation and right to use the Chips JU logo and the EU emblem.....	14
Article 16 - Disclaimer	15
Article 17 - Information on support from Participating States.....	15
Article 18 - Security	16
Article 19 - Access to the Chips JU pilot line.....	16
Article 20 - Accounting of Access and resource usage	18
Article 21 - Total cost of ownership the Chips JU pilot line.....	18
Article 22 - Checks and Audits	18
Article 23 - On-the-spot visits	19
CHAPTER 3.....	20
Article 24 - Subcontracting and third parties.....	20
CHAPTER 4.....	20
Article 25 - Consequences of non-compliance with obligations.....	20
Article 26 - Liquidated Damages	21
Article 27 - Liability.....	22
Article 28 - Insurance	23
Article 29 - Termination of the Agreement/Withdrawal of a member	23
Article 30 - Termination by the Chips Joint Undertaking of the Agreement for specific reasons	23

Article 31 - Procedure and effect of termination	24
Article 32 - Force majeure	25
CHAPTER 5.....	25
Article 33 - Entry into force and duration.....	25
Article 34 - Amendments	25
Article 35 - Severability	25
Article 36 - Applicable law and settlement of disputes.....	26
Article 37 - Communication between the parties	26
Article 38 - Form and means of communication	26
Article 39 - Date of communications by mail and electronic mail (email)	27
SIGNATURES	28
Annex I Service Level Agreement (SLA) - Required Hosting Activities	29
Annex III. Description of Action (Application Ref: PL 5) (Confidential)	30
Annex III. Summary table of financing of the Pilot Line (Confidential)	30
Annex IV. List of crucial pieces of equipment including retroactive equipment (Confidential)	30

General Framework

The Chips Joint Undertaking (hereinafter "Chips JU") is established by Council Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe¹ (hereinafter "SBA") and modified by its amendment, Council Regulation (EU) 2023/1782 of 25 July 2023 (hereinafter "SBA Amendment"). Furthermore, the Chips JU is tasked to implement the main part of the Chips for Europe Initiative (established under Regulation (EU) 2023/1781 of 13 September 2023 (hereinafter "Chips Act").

Article 3 of the Chips Act establishes the Chips for Europe Initiative (hereinafter "the Initiative"). Articles 4 and 5 of the Chips Act define the different operational components of the Initiative. Under operational objective 2, the Initiative will support the development of new pilot lines. In accordance with Article 12(1) of the Chips Act, the Chips JU will implement, amongst other, operational objective 2. Given the strategic EU dimension of the Initiative and, in this context, the pilot lines, it is important that the Chips JU co-owns the crucial pieces of equipment together with the relevant Participating State(s) or the entity(ies) hosting the pilot line, as the case maybe. Therefore, in line with Article 165(2)

of the Financial Regulation, the Chips JU and the Participating State where the Hosting Entity is located or the Hosting Entity shall acquire the pilot line infrastructure (hereinafter ‘Chips JU pilot line’). The Chips JU shall co-own the crucial pieces of equipment of the pilot line for 50%. The Union contribution to the pilot lines will stem from the budgets of Horizon Europe and the Digital Europe Programme.

Following the Chips JU multiannual work programme (Appendix 4 for 2024 Initiative part)¹, the Chips JU has launched a Call for Pilot Line (CPL)². This Call for Pilot Line included three interrelated calls:

- Call for Expression of Interest for the selection of a Hosting Consortium
- Call for proposals for Set-up, integration and process development, funded under the Horizon Europe Programme
- Call for proposals for the operational activities of the pilot line, funded under the Digital Europe Programme,

The evaluation of the CPL consisted of the simultaneous evaluation of the abovementioned three interrelated calls. A consortium could only be eligible for funding if its proposal for all three calls passed the necessary thresholds.

In accordance with the criteria referred to in the CPL, the Public Authorities Board³ (PAB) has selected the [name of the pilot line] pilot line, represented by the coordinator referred to above.

The selection of a proposal in a CPL leads to the signature of the present Hosting Agreement, one or more joint procurement agreements (JPAs) and a number of grant agreements.

The purpose of this Hosting Agreement is to lay down the terms and conditions under which the Hosting Consortium, represented by the coordinator, will host the Chips JU pilot line in the name and on behalf of the Chips JU. This includes providing access to users, and associated services for the fulfilment and implementation of the Chips JU’s tasks and activities, as defined in the SBA and SBA Amendment.

The Hosting Consortium will be composed of the following members:

- Hosting Entities (i.e., entities that have a hosting site);
- other members (members of the Consortium that do not have a hosting site); and
- one coordinator. The coordinator will be mandated by the present Hosting Consortium to act on behalf of the other members of the Consortium.

It must be noted that the pilot line can be physically located at one or several hosting sites. A hosting site is the physical facility at which a Hosting Entity will host and operate (part of) a Chips JU pilot line and which is established in a Participating State that is a Member State. It must be noted that in the case of the [name of the pilot line] pilot line, the Chips JU pilot line will be distributed across different hosting sites that are located in different Member States. The Hosting Entities shall be: [hosting entities].

¹ Chips JU GB decision xxxx.xx

² Chips JU PAB decision xxxx.xx

³ Chips JU PAB decision xxxxx.xx

CHAPTER 1

Article 1 - Subject matter

1. The subject matter of the Agreement is to define the roles and responsibilities between the Chips Joint Undertaking and the Hosting Consortium regarding the provision of the facilities to host and operate the Chips JU pilot line and the provision of the hosting services, which are entrusted by the Chips Joint Undertaking (being the co-owner of crucial pieces of equipment of the Chips JU pilot line together with the National Contracting Authority(ies) or together with the relevant Hosting Entities of the Hosting Consortium) and define the relevant terms and conditions for the long-term collaboration between the Hosting Consortium and the Chips Joint Undertaking.
2. The Hosting Consortium will execute the tasks assigned to it in accordance with the Agreement, its Annexes and the subsequent grant agreement(s) to be signed for specific costs of the Chips JU pilot line.
3. The current Agreement shall be legally binding on all the members of the Hosting Consortium, which shall be represented by the coordinator.
4. The members of the Consortium shall adopt their own internal arrangements (Consortium agreement) in order to properly implement the Chips JU pilot line. These internal arrangements shall also cover liability.

Article 2 - Definitions

1. For the purposes of this Agreement the following definitions apply:
 - a) "Access conditions" means the conditions under which a user or group of users may access a Chips JU pilot line in order to use the pilot line.
 - b) "Acceptance test" means a test conducted to determine if the requirements of the system specification of the pilot line or part thereof are met.
 - c) "Call for Expression of Interest (CfEoI)" means the procedure followed to select the Hosting Consortium for the Chips JU pilot line.
 - d) "Chips JU pilot line" or "pilot line" means an experimental project or action to further develop an enabling infrastructure necessary to test, develop, demonstrate, validate and calibrate a product or system with the model assumptions. It consists of the tools (equipment, machines, etc.), technical infrastructure and expertise, including R&D expertise, necessary to develop experimental manufacturing process technology for leading-edge and advanced technologies.
 - e) "Confidential information or document" means any information or document received by either party from the other or accessed by either party in the context of the performance of the Agreement that any of the parties has identified in writing as confidential. It may not include information that is publicly available.

- f) “Conflict of interest” means a situation where the impartial and objective implementation of the agreement by the Hosting Entity is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other direct or indirect personal interest.
- g) “Crucial pieces of equipment of the Chips JU pilot line” means equipment and/or tools of a value equal or higher than EUR 500,000.
- h) “Force majeure” means any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the Agreement which is not attributable to error or negligence on their part or on the part of the subcontractors’ affiliated entities or third parties in receipt of financial support and which proves to be inevitable despite their exercising due diligence. Such force majeure events can include, if not proven otherwise, inter alia, terrorist attacks, pandemic as declared by the World Health Organisation (WHO), war or insurrection, natural catastrophes, interruptions in general traffic or data communication. The situation or event must not be attributable to error or negligence on the part of the parties or on the part of the subcontractors and must prove to be inevitable despite their exercising due diligence. Defaults, defects in equipment or material or delays in making them available, labour disputes, strikes and financial difficulties may not be invoked as force majeure, unless they stem directly from a relevant case of force majeure as set out above.
- i) “Formal notification” means a form of communication between the parties made in writing by mail or email, which provides the sender with concrete evidence that the message was delivered to the specified recipient.
- j) “Fraud” within the meaning of Article 3 of EU Directive 2017/137112 and Article 1 of the Convention on the protection of the European Communities’ financial interests, drawn up by the Council Act of 26 July 199513. Fraud is also any other wrongful or criminal deception intended to result in financial or personal gain;
- k) “Hosting Consortium” means the Consortium composed of the following members: *[name of the consortium members]*. The following members: *[name of consortium members which are also hosting entities]* are Hosting Entities (i.e., entities that have a hosting site), the other members are non-Hosting Entities (members of the Consortium that do not have a hosting site), and one of these members, *[name of the coordinator]*, is the coordinator.
- l) “Coordinator” is a member of the Consortium that is mandated by the Hosting Consortium to act on behalf of all the other members of the Consortium (e.g., to signs the Hosting Agreement).
- m) "Hosting Entity" means the legal entity established in a Participating State to the Chips Joint Undertaking that is a Member State which provides facilities to host and operate a Chips JU pilot line or part of the Chips JU pilot line and which has been selected in accordance with the CfEoI as part of the Hosting Consortium.

- n) “Hosting Site” means the physical facilities at which a Hosting Entity that is part of the Hosting Consortium will host and operate the Chips JU pilot line or part of the Chips JU pilot line and which is established in a Participating State that is a Member State. A Chips JU pilot line may be distributed across different hosting sites that are located in different Member States.
- o) “Joint Procurement Agreement (‘JPA’)” means the formal arrangement or contract used in the case of several contracting authorities acting jointly based on Article 165(2) of the Financial Regulation which allows them to collectively procure and co-own the tools and/or equipment needed for the pilot lines.
- p) “Grave Professional Misconduct” any type of unacceptable or improper behaviour in exercising one’s profession, especially by employees, including grave professional misconduct within the meaning of Article 136(1)(c) of EU Financial Regulation 2018/1046.;
- q) “Irregularity” means any type of breach (regulatory or contractual) which could impact the EU financial interests, including irregularities within the meaning of Article 1(2) of EU Regulation 2988/9514;
- r) “Subcontract” means a contract which covers the implementation by a third party of tasks forming part of the Agreement;
- s) “Substantial Error” means any infringement of a provision of the Agreement resulting from an act or omission, which causes or might cause a loss to the Union’s financial contribution to the Chips Joint Undertaking or damage the Union’s or the JU’s financial interests;
- t) “Technical Infrastructure” means the set of infrastructure equipment needed for hosting and operating the Chips JU pilot. It includes equipment related to cooling, power supply and distribution, fire security and physical security.
- u) ‘Total Cost of Ownership’ of a Chips JU pilot line means the acquisition costs plus the setup and integration costs, and the operating costs, including maintenance and technical infrastructure costs, and also, as the case may be, decommissioning costs;
- v) "User" or "Users" means any natural or legal person, entity or international organisation that makes use of the Chips JU pilot line services;
- w) "Vendor" refers to the person(s) with whom the Hosting Entity/or the relevant National Contracting Authority either together with the Chips Joint Undertaking for crucial pieces of equipment or as sole National Contracting Authority for other pieces of equipment has a procurement contract for the acquisition and maintenance of the Chips JU pilot line or parts thereof.

- x) “Rules Applicable to the Chips JU” include the SBA, the SBA Amendment, the Chips Act, Horizon Europe, the Digital Europe Programme, the Financial Regulation, the Model Financial Regulation, the financial rules of the Chips JU and any other legislative or non-legislative act that may be applicable to the Chips JU.

CHAPTER 2

Article 3 - General Obligations of the Hosting Consortium

1. The Hosting Consortium, represented by the Coordinator, shall execute the Agreement to the highest professional standards respecting deadlines mutually agreed by the Parties.
2. The Coordinator shall ensure that all obligations applicable to the members of the Hosting Consortium in the context of the present Agreement are fulfilled in due time and to the highest standards.
3. All activities and services shall be carried out by the Hosting Consortium in compliance with the applicable health and safety laws and regulations.
4. The Hosting Consortium shall ensure that the personnel performing the Agreement possesses the professional qualifications and experience required for the execution of the tasks assigned to it. The Hosting Consortium will be solely responsible for the personnel who executes the tasks assigned to it.
5. The Hosting Consortium shall:
 - a) ensure the proper operation of the Chips JU pilot line within the scope of its responsibilities (as listed in paragraph 6.) to enable Users to access the services defined in Annex III for the duration of this Agreement,
 - b) ensure the security of the Chips JU pilot line, and the Technical Infrastructure of the relevant Hosting Entity,
 - c) report to the Chips Joint Undertaking through the submission of documents,
 - d) ensure access to the pilot line in accordance with Article 19 of this Agreement,
 - e) inform the Chips Joint Undertaking and Users without delay about the incidents impacting the use of the Chips JU pilot line,
 - f) provide any information to the Chips Joint Undertaking that is relevant for the Joint Undertaking to perform its duties under the present Agreement and the rules applicable to the Chips JU,
 - g) allow staff members of the Chips Joint Undertaking to visit the hosting site(s) to verify information that may be deemed relevant to perform the Chips JU’s duties under the present Agreement and the rules applicable to the Chips JU,
 - h) fulfil its financial obligations as defined in this Agreement, the rules applicable to the Chips JU, and the relevant grant agreement(s).
6. The Hosting Consortium shall ensure the functionality of the Chips JU pilot line. As long as the members of the Hosting Consortium do not incur in Fraud, bad faith, wilful default, recklessness or negligence, they will not be liable for incidents or damage attributable to:
 - a) hardware failures or faults of the Chips JU pilot line,

- b) software failures or faults,
- c) misuse of the Chips JU pilot line by Users
- d) negligence or failure of Users to follow the instructions for use of the Chips JU pilot line or software or breach of the end user license terms, or
- e) force majeure events in accordance with Article 32.

In all cases, including the above, the Hosting Consortium shall inform the Chips JU without delay and shall take without delay all appropriate measures to restore the functionality of the Chips JU pilot line to minimise costs and prevent financial loss or damage to the Chips Joint Undertaking and to the Chips JU pilot line.

7. In relation to the action(s) funded under the grant agreement(s), the rules laid down in the relevant grant agreement(s) shall apply.

Article 4 - General Obligations of the Chips Joint Undertaking

1. The Chips Joint Undertaking shall:
 - a) Fulfil its financial obligations as defined in this Agreement.
 - b) Be co-owner (at a 50-50 share) of the crucial pieces of equipment of the Chips JU pilot line.
 - c) Provide assistance and relevant information to the Hosting Entities and/or the relevant competent authorities that carry/ies out the Joint Procurement in line with Article 165(2) of the Financial Regulation.
 - d) Provide any information to the Hosting Consortium that is relevant for the latter to perform its duties under the rules applicable to the Chips JU and the Agreement within the deadlines agreed by the parties.

Article 5 - Obligations of the Parties during the acquisition procedure

1. In accordance with the Joint Procurement Agreement, the relevant Hosting Entity/ies or the relevant competent authorities, supported by the Chips Joint Undertaking, shall launch the process for the acquisition of the crucial pieces of equipment of the Chips JU pilot line.
2. Throughout the acquisition process of the crucial pieces of equipment of the Chips JU pilot line, including the preparatory phase, the Parties shall work together in a spirit of collaboration for achieving the objective of acquiring the crucial pieces of equipment of the Chips JU pilot line.
3. For that purpose, the Parties shall have the following responsibilities:
 - a. The Chips Joint Undertaking and the Hosting Consortium will work together in order to define and design the main technical specifications of the crucial pieces of equipment of the Chips JU pilot line to be acquired.
 - b. The Hosting Consortium shall identify and implement the hosting site(s) requirements, including but not limited to the infrastructure, security rules and site regulation, for the proper installation and operation of the Chips JU pilot line. It is the responsibility of the Hosting Consortium and, in particular, the relevant Hosting Entity, to prepare the hosting site on time for the installation of the Chips JU pilot line. The Hosting Consortium shall provide to the Chips Joint Undertaking:
 - a) Evidence of compliance with each requirement and specification as included in

Annex III. Description of Action;

- b) Evidence of readiness to provide the required services defined in this Agreement;
 - c) Evidence of successful testing of all requirements defined in this Agreement;
 - d) Demonstration of resilience of systems and components.
4. The Chips Joint Undertaking or any entity mandated by the Joint Undertaking will have the right to inspect the hosting site(s), documentation, certifications and test reports, where relevant, in order to sign off acceptance of the relevant milestones, in accordance with the security rules of the relevant Hosting Entity.

Article 6 - Obligations of the Parties during the performance of the Agreement

1. Unless otherwise indicated, the relevant Hosting Entity will be mandated to act in the name and on behalf of the Chips Joint Undertaking during the installation, the commissioning, the maintenance and, if necessary, the decommissioning of the crucial pieces of equipment of the Chips JU pilot line hosted at its Hosting Site. For the purpose of these technical operations, the relevant Hosting Entity will be the single point of contact of the Vendor(s) in the framework of the procurement contract(s) to be signed between the relevant contracting authority and the Vendor(s).

Article 7 - Delivery and installation of the Chips JU pilot line

1. There are several Hosting Entities in the [*name of the consortium/Pilot Line*] Hosting Consortium.
2. The relevant Hosting Entity shall monitor and supervise the proper delivery and installation of the Chips JU pilot line or part(s) thereof by the Vendor and/or in cooperation with the Vendor.
3. The relevant Hosting Entity shall provide a report to the Chips Joint Undertaking in that regard and will respond to any questions relevant to the delivery and installation of the Chips JU pilot line in a timely manner.
4. The relevant Hosting Entity shall collaborate with the Vendor(s) or, where relevant, with the third party carrying out the installation, during the installation to make sure that the installation of the equipment dedicated to the Chips JU pilot line is done in time and according to the specified requirements of the procurement contract(s) signed with the Vendor(s) of the equipment/tools. The relevant Hosting Entity shall ensure that the Vendor(s) or the relevant provider will be solely liable for the proper installation of their equipment/tools.
5. Where the relevant Hosting Entity carries out itself the installation of the equipment, it shall do so in a timely manner and according to the necessary requirements of the Chips JU pilot line. In this case, the Hosting Entity shall be solely liable for the proper installation of the equipment/tools.
6. The relevant Hosting Entity shall supervise, monitor and check the compliance of the equipment/supplies provided by the Vendor during the delivery and installation of the Chips JU pilot line with the requirements of the procurement contract with the Vendor referred to in paragraph 4.
7. The Coordinator shall work closely together with the relevant Hosting Entities.

Article 8 - Acceptance of the equipment for the Chips JU pilot line

1. The relevant Hosting Entity shall check the compliance of the Chips JU pilot line in the terms of Article 7.6 and shall perform the acceptance test (of the pilot line (commissioning)) in that regard.
2. The relevant Hosting Entity shall perform the commissioning in accordance with the testing procedure which shall be jointly agreed between the Parties and defined in the contract with the Vendor.
3. The relevant Hosting Entity will inform the Chips Joint Undertaking on the outcome of the commissioning accordingly. In case of non-compliance, the relevant Hosting Entity shall have the primary role in interacting with the Vendor to choose the most appropriate solution to be implemented, in consultation with the Chips Joint Undertaking, while keeping the latter informed throughout the process.

Article 9 - Operations

1. The relevant Hosting Entity must provide the hosting services defined in Required Hosting Activities in Annex I Service Level Agreement (SLA) and shall be responsible for the operation of the Chips JU pilot line in accordance with the grant agreement.
2. The relevant Hosting Entity must provide the Chips Joint Undertaking regular service, utilisation and performance reports to be mutually agreed upon. The Hosting Entity must implement the allocation of usage of the Chips JU pilot line in accordance with this Agreement.

Article 10 - End of the operations or transfer of ownership of the Chips JU pilot line/ Depreciation and Residual Value

1. At the earliest three years after the successful acceptance test by the relevant Hosting Entity of the respective crucial piece of equipment of the Chips JU pilot line, and at the latest three (3) months before the end of this Agreement the Chips Joint Undertaking, upon mutual agreement of the Parties and subject to a positive decision of the Public Authorities Board, may decide to transfer its share of ownership of the crucial piece of equipment to the relevant Hosting Entity, or, sell it to another entity or decommission it, in whole or in part. The Joint Undertaking shall not be liable for any costs incurred after the transfer of ownership of the crucial pieces of equipment of the Chips JU pilot line and, as provided in Article 29, this Agreement may be terminated by mutual consent of the Parties.
2. For the purpose of this Agreement, linear depreciation using a period of 8 years will be applied.
3. The residual value shall be calculated taking into account the depreciation in accordance with standard accounting practices of the Financial Regulation for such assets in force at that time.
4. In the case that transfer of ownership of the crucial pieces of equipment to the Hosting Entity have been decided based on paragraph 1, the ownership will be transferred to the Hosting Entity only at the end of the depreciation period of each crucial piece of equipment provided that the Chips Joint Undertaking has a legal and universal successor after 31 December 2031. The list, depreciation timing and use of each piece of equipment shall be expressly indicated and regulated in the mutual agreement indicated in paragraph 1.

Article 11 - Conflict of Interest

1. The Hosting Consortium must take reasonable measures to prevent any situation where the impartial and objective implementation of the tasks is compromised for reasons involving economic interest, political or national affinity, family or emotional life or any other direct or indirect personal interest

(“conflict of interest”).

2. The Hosting Consortium must formally notify to the Chips Joint Undertaking without delay any situation constituting or likely to lead to a conflict of interest and immediately take all the necessary steps to rectify this situation.
3. The Hosting Consortium shall pass on all the relevant obligations on conflict of interest in writing to:
 - the personnel of its members;
 - any natural person with the power to represent it or take decisions on its behalf;
 - third parties involved in the performance of the agreement including subcontractors.
4. The Hosting Consortium must also ensure that the persons referred to above are not placed in a situation which could give rise to conflicts of interest.
5. The Chips Joint Undertaking may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.
6. In relation to the action funded under grant agreements, the conflict-of-interest rules in those grant agreements will apply.

Article 12 - Confidentiality obligation and non-disclosure

1. The Chips Joint Undertaking and the Hosting Consortium undertake to preserve the confidentiality of any document, information or other material directly related to the subject of the Agreement that is duly classified as confidential.
2. The Parties will not use confidential information and documents for any reason other than fulfilling the obligations under the Agreement or the grant agreement, unless otherwise foreseen in writing.
3. A receiving party will notify the disclosing party if it is legally required to disclose any confidential information or learns of any unauthorized disclosure of confidential information.
4. The parties will be bound by the obligation referred to in the above paragraphs during the implementation of the Agreement and for as long as the (different parts of the) Chips JU pilot line remains in the Hosting Entity/entities under the co-ownership of the Chips Joint Undertaking and for a period of five (5) years starting from the date of the termination of this agreement, 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, regulation or binding order of competent authorities.
5. In relation to the action funded under the relevant grant agreement(s), the confidentiality rules in the grant agreement(s) will apply.

Article 13 - Processing of personal data by the Chips Joint Undertaking

1. The Chips Joint Undertaking will process any personal data under the Agreement in accordance

with Regulation (EU) 2018/1725.⁴

2. Where the Joint Undertaking is the data controller under Regulation (EU) 2018/1725, such data will be processed by the ‘data controller’ solely for the purposes of the implementation, management and monitoring of the Agreement or to protect the Union’s or the Joint Undertaking’s financial interests, including checks, audits and investigations, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of the applicable rules.
3. The persons whose personal data are processed have the right to access, rectify or erase their own personal data and the right to restrict or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, they must send any queries about the processing of its personal data to the data controller, via the contact point indicated in the privacy statement(s) that are published on the JU website.
4. The persons whose personal data are processed may have recourse at any time to the European Data Protection Supervisor.

Article 14 - Processing of personal data by the Hosting Consortium

1. The Hosting Consortium must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).
2. The Hosting Consortium may grant its personnel (i.e., the personnel of the members of the Hosting Consortium) access only to data that is strictly necessary for implementing, managing and monitoring the Agreement. The Hosting Consortium must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.
3. The Hosting Consortium must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned. This is in order to ensure, as appropriate:
 - a) the pseudonymisation and encryption of personal data;
 - b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
 - d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
 - e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.
4. In relation to the action funded under the relevant grant agreement(s), the data protection rules in the grant agreement(s) will apply.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002, OJ L 295, 21.11.2018, p. 39–98.

Article 15 - Information on JU funding and support from Participating States – Obligation and right to use the Chips JU logo and the EU emblem

1. Unless the Chips Joint Undertaking requests or agrees otherwise, any communication or publication made by the Hosting Consortium that relates to the Chips JU pilot line, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form, etc.), must:
 - a. display the Chips Joint Undertaking's logo,
 - b. display the EU emblem, and
 - c. include the following text: "The acquisition and operation of the Chips JU pilot line is funded jointly by the Chips Joint Undertaking, through the European Union's Digital Europe programme and Horizon Europe programme, as well as by the Participating States [countries to be added]".
2. Unless the Chips Joint Undertaking requests or agrees otherwise, the equipment and tools procured via Joint Procurement must display the Chips Joint Undertaking's logo and the EU emblem.
3. When displayed together with another logo, the Chips Joint Undertaking logo and the EU emblem must have appropriate prominence.
4. The obligation to display the Chips Joint Undertaking logo and the European Union emblem does not confer to the Hosting Consortium a right of exclusive use. The Hosting Consortium may not appropriate the Chips Joint Undertaking logo and the EU emblem or any similar trademark or logo, either by registration or by any other means.
5. For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the Hosting Consortium may use the Chips Joint Undertaking logo and the EU emblem without first obtaining permission from the Joint Undertaking or the Commission.
6. In relation to the action funded under the grant agreement, the visibility rules in the grant agreement will apply.

Article 16 - Disclaimer

1. Any communication or publication that relates to the Chips JU pilot line, made by the Hosting Consortium in any form and using any means, must indicate:
 - a) that it reflects only the author's view; and
 - b) that the Chips Joint Undertaking is not responsible for any use that may be made of the information it contains.

Article 17 - Information on support from Participating States

1. Unless the parties agree otherwise, any communication or publication made by the Joint Undertaking that relates to the Chips JU pilot line, shall together with the Chips Joint Undertaking logo and the EU emblem, display:
 - a) the flag of the Participating States in the Hosting Consortium

- b) the logo of the members of the Hosting Consortium,
 - c) include the following text: “The acquisition and operation of the Chips JU pilot line is funded jointly by the Chips Joint Undertaking, through the European Union’s Digital Europe programme and Horizon Europe programme, as well as by the Participating States [*insert participating states*]”.
2. For the purposes of the paragraph 1 and under the conditions specified therein, the Chips Joint Undertaking may use the logo of the members of the Hosting Consortium without first obtaining their permission.

Article 18 - Security

1. The Hosting Consortium shall provide access to the Chips JU pilot line for the purposes stipulated in this Agreement, while ensuring the security of the pilot line.
2. The Hosting Consortium must adopt appropriate technical and organisational security measures having regard to the risks inherent to the hosting and operations of the pilot line.
3. The Hosting Consortium will provide access in a secure manner to the/their hosting site(s) and allow for external visitors to visit the Chips JU pilot line in the context of this Agreement.

Article 19 - Access to the Chips JU pilot line

1. Access conditions shall be in line with the legal framework described in Article 128(5) of the SBA and Articles 13(4) and 14(5) of the Chips Act, with the relevant work programme, and the Call for Pilot Line as well as with the legal framework and requirements of the Hosting Entities as long as they are not in contradiction with the abovementioned legal provisions, work programme and Call for Pilot Line.
2. Specifically, the terms governing the Access conditions to the pilot line shall be specified in accordance with the following parameters:
 - a) The access policy for potential Users intending to develop semiconductor devices utilizing the infrastructure.
 - b) The access policy for industrial entities intending to deploy the process technology in manufacturing facilities, outside the pilot line, e.g., industrial foundries;
 - c) The access policy for users intending to utilize virtual assets, including Process Development Kits (PDKs) and Assembly Development Kits (ADKs).
3. The Hosting Consortium shall implement the necessary requirements, processes and arrangements in order to fulfil the access rights mentioned in this Article.
4. The Hosting Consortium shall ensure the quality of the service and that the quality of service is the same for all Users in accordance with the relevant SLA.
5. The Hosting Consortium shall provide access to the Chips JU pilot line, while ensuring the security of the pilot line and the protection of personal data in accordance with Regulation (EU) 2016/679⁵, the protection of privacy of electronic communications in accordance with Directive 2002/58/EC⁶,

⁵ OJ L 119, 4.5.2016, p. 1.

⁶ OJ L 201, 31.7.2002, p. 37.

the protection of trade secrets in accordance with Directive (EU) 2016/943⁷ and the protection of confidentiality of other data covered by the obligation of professional secrecy.

6. Access to a Pilot Line should be based on fair and non-discriminatory principles and should primarily be reserved to entities established in Participating States of the Chips JU, meaning EU Member States, EEA countries and those countries that have been associated to Horizon Europe or to the Digital Europe Strategic Objective 6 (under which the pilot lines are funded).
7. In determining access to the Pilot Line for entities established in any Participating State but controlled from third countries that are not Participating States of the Chips JU, the consortium must take into consideration the following two main criteria:
8. EU added value, which refers to the contribution of third country entities to the objectives of the Chips Act as these are set out in Article 4 of the Act. Such criterion may also include entities that contribute to clearly expanding the knowledge base and capabilities of the consortium to build the Pilot Line.
9. Economic security considerations, which considers the risks and benefits of improving the resilience of European semiconductors supply chains, the risks of ensuring the physical and cybersecurity of the Pilot Line, the risks related to security and leakage of sensitive semiconductor technology, for both the technology of the Pilot Line itself, and new semiconductor technology developed with the Pilot Line.
10. The above access criteria should also be duly considering other relevant provisions of the EU Chips Act (notably Recital 118, and Recital 279, such as for example those in relation to the handling of sensitive information, potential risks of infringement of intellectual property (IP) rights, unauthorised disclosure of trade secrets and IP rights, security, confidentiality, or the leakage of sensitive emerging technologies within the semiconductor sector.
11. Only users from entities that comply with the above criteria shall be granted access.
12. Entities from third countries may also be granted access when they come from those third countries which have already signed a Digital Partnership or a Trade and Technology Council agreement with the Union. For such entities, access to a Pilot Line can be granted when one of the following conditions apply:
13. when they are eligible to participate in jointly funded research and innovation activities in semiconductors agreed between the Union and that third country and/or when such access is foreseen in specific cooperation agreements that the Union has signed with that third country under the above-mentioned international agreements;
14. For cases other than (i) above, specific entities from third countries may also be granted access to a Pilot Line with the aim to strengthen the international collaboration of the EU for the benefit of a more resilient European value chain and partnership and to build a strong international ecosystem around the Pilot Line. For such entities to be granted access to the Pilot Line, the Consortium shall seek prior agreement from the European Commission based on an analysis that it has to submit to the Commission considering the above two criteria.
15. Access to entities from all other third countries than the above shall be prohibited.
16. Before granting access to a Pilot Line to any entity, whether this comes from a Participating State

⁷ OJ L 157, 15.6.2016, p. 1.

⁸ Chips Act – Recital 11

⁹ Chips Act – Recital 27

or a third country, such entity shall commit to fulfil the provisions of the Chips Act, as these are provided above, and support the economic security strategy of the EU.

17. In close collaboration with the Chips JU, the Hosting Consortium will be tasked to further elaborate on the above two access criteria and access conditions and widely publish them. Such access conditions shall duly take into consideration the following elements: security procedures (both for physical and digital), cybersecurity protection of digital systems used to operate the pilot line, access control to facility and digital systems (including logging of access), security clearance, setup of different restricted areas with different security levels (such as the compartmentalisation of both digital and physical infrastructures).
18. The Access conditions will be those defined in Annex III. Description of Action to this Agreement.

Article 20 - Accounting of Access and resource usage

1. The Hosting Consortium must ensure that the access and resource usage is registered in a traceable and auditable way and provides an appropriate overview of the system utilisation. The Hosting Consortium must provide regular information of access allocation and usage as part of the reports indicated in Annex II.
2. The Chips Joint Undertaking has the right to audit the allocation and usage of the Chips JU pilot line resources in accordance with Article 22.

Article 21 - Total cost of ownership the Chips JU pilot line

1. The maximum budget dedicated to the pilot line is set at a maximum of up to EUR [xxx] The Union's financial contribution to the Chips JU dedicated to the pilot line is set at a maximum of EUR [xxx]. The Union's financial contribution will cover up to 50 % of the total cost of the Chips JU pilot line.
2. The remaining of the total cost of the Chips JU pilot line will be covered by the members of the Consortium or by the Participating State(s) where the members of the Consortium are established.
3. Following Article 3 of the Protocol on the privileges and immunities of the European Union¹⁰, the Chips Joint Undertaking is not subject to Value Added Tax (VAT) linked to the procurement of the pilot line, however depending on applicable national VAT rules where the pilot line is to be located (direct or reimbursement system) a case-by-case agreement will be necessary before the signature of the Joint Procurement Agreement.

Article 22 - Checks and Audits

1. The Chips Joint Undertaking may, during the implementation of the Agreement or afterwards, carry out technical and financial checks and audits to determine that the Hosting Consortium is implementing the Agreement properly and is complying with the obligations under the Agreement, including assessing deliverables and reports. For that purpose, the Hosting Consortium must provide any information, including information in electronic format, requested by the Chips Joint Undertaking or by any other outside body authorised by the Chips Joint Undertaking. Information provided must be accurate, precise and complete and in the format

¹⁰ OJ 310, 16/12/2004 P. 0261 – 026,

requested, including electronic format.

2. The specific terms and conditions including audit regarding the set-up and integration and operating costs of the Chips JU pilot line from Union financial contribution will be defined in the relevant grant agreement(s) to be signed between the Parties for that purpose on the basis of the applicable legal framework.
3. The Hosting Consortium must also put in place an audit procedure covering the access of the Users managed by Chips JU in accordance with the rules applicable to the Chips JU and, in particular, this Agreement. The audit procedure must address but not be limited to information on all User access and User identification.
4. The Hosting Consortium must submit each year, on time for its inclusion in that year's annual activity report, to the Chips Joint Undertaking's Governing Board a report and data on the access to the Chips JU pilot line in the previous financial year (Annex II).
5. The checks and audit data must be protected, non-repudiated and restricted to authorized staff. Retention of the relevant records will be retained online for at least ninety (90) days and further preserved offline for the period of the Agreement or as required by the Chips Joint Undertaking.
6. Information and documents provided as part of checks or audits must be treated on a confidential basis.
7. The above checks and audits may be carried out either directly by the Chips Joint Undertaking's own staff or by any other outside body authorised to do so on its behalf, whereby the Hosting Consortium shall be previously informed in writing thereof.
8. In addition to the Chips Joint Undertaking, the European Commission, the European Anti-Fraud Office (OLAF), the European Public Prosecutor's Office (EPPO), and the Court of Auditors may carry out checks and audits in accordance with their respective competences and the applicable legal framework.
9. For actions and procurement funded from the Digital Europe Programme, audits of recipients of Union funds under this programme should be carried out in compliance with Regulation (EU) 2021/694.
10. For actions funded from the Horizon Europe, audits of recipients of Union funds under this programme should be carried out in compliance with Regulation (EU) 2021/695.
11. In relation to the action(s) funded under the relevant grant agreement(s), the rules on checks and audits in the grant agreement(s) shall apply.

Article 23 - On-the-spot visits

1. The Chips Joint Undertaking has the right to perform on-the-spot visits to the Hosting Site(s) and the premises of the Hosting Consortium.
2. During an on-the-spot visit, the relevant Hosting Entity will allow the staff of the Chips Joint Undertaking and any external personnel authorised by the Chips Joint Undertaking to have access to the Hosting Site and premises of the Chips JU pilot line, and to all the necessary information related to the hosting and operation of the Chips JU pilot line for the assessment of the fulfilment of this Hosting Agreement, including information in electronic format.
3. The relevant Hosting Entity must ensure that the information is readily available at the moment of the on-the-spot visit and that information requested is handed over in an appropriate form.

Visits agreed herein will be notified at least fifteen (15) calendar days beforehand and be carried out in a way that causes minimal disruption to safety and operation of services under the relevant Hosting Entity's responsibilities.

4. In relation to the action funded under the relevant grant agreement(s), the rules in the grant agreement(s) shall apply.

CHAPTER 3

Article 24 - Subcontracting and third parties

1. The Hosting Consortium is allowed to subcontract certain activities to be performed to third parties. However, the Hosting Consortium must ensure that the percentage of subcontracting activities is proportionate and justifiable in accordance with the objective of the Agreement. The Hosting Consortium will remain bound by its obligations under the Agreement and will be solely responsible for the proper performance of this agreement, including by third parties acting in their capacity as subcontractors.
2. The Hosting Consortium will make sure that the subcontract does not affect rights and guarantees granted to the Chips Joint Undertaking by virtue of this Agreement.
3. In relation to the action funded under the relevant grant agreement(s), the rules concerning subcontracting in the grant agreement(s) shall apply.

CHAPTER 4

Article 25 - Consequences of non-compliance with obligations

1. The Hosting Consortium will use its best endeavours to fulfil its obligations under this Agreement and provide services under the highest professional standards and in a timely manner, within the deadlines agreed between the Parties.
2. The Chips Joint Undertaking will use its best endeavours to fulfil its obligations under this Agreement in a timely manner, within the deadlines agreed between the Parties.
3. The Chips Joint Undertaking and the Hosting Consortium will use their best efforts to solve any non-compliance issue amicably, taking into account the best interests of the Union, the interests of the Hosting Consortium and the shared objectives of the Chips Joint Undertaking and the Hosting Consortium.
4. In case one of the Parties is not in position to fulfil its obligations under this Agreement on time for whichever reason, it will notify the other party without delay, stating the nature of the circumstances, their likely duration and effects and the measures taken to limit or mitigate any damage.
5. In case a status report shows that the services provided by the Hosting Consortium are not fully compliant with this Agreement, the Chips Joint Undertaking will evaluate the severity of the problem and its consequences, and discuss the conclusions of this evaluation with the Hosting Consortium.
6. If the obligations of the Hosting Consortium included in this Agreement have not been implemented accordingly or if any obligation under the Agreement has been breached by the Hosting Consortium, the Chips Joint Undertaking will send a formal notification to the coordinator of the Hosting Consortium requesting the Hosting Consortium to rectify that situation or provide explanations and intended rectification or remedial actions. The Hosting Consortium will respond to this notification

within ten (10) calendar days following the date of receipt.

7. If the Hosting Consortium does not respond within the abovementioned timeframe, the Chips Joint Undertaking will send a reminder by way of a second formal notification to the Hosting Consortium, specifying the measures it intends to take if the Hosting Consortium does not respond to its request or does not take appropriate and reasonable measures to rectify the situation. The Hosting Consortium must respond to this second formal notification within ten (10) calendar days following the date of receipt. If the Hosting Consortium does not respond to this reminder, the Chips Joint Undertaking will have the right to take the measures described in paragraph 8 and in Article 26 notwithstanding any other legal rights of the Chips Joint Undertaking, taking into account the principle of proportionality and the seriousness of the breach or non-compliance.
8. In all cases, excluding cases of force majeure which are regulated under Article 32 of this Agreement, the Chips Joint Undertaking will have the right to request from the Hosting Consortium to comply with the Agreement and/or proportionally reduce or recover amounts unduly paid to the Hosting Consortium, as appropriate and in accordance with the principle of proportionality and the seriousness of the breach or non-compliance and after using its best endeavours to allow the Hosting Consortium to exercise its right to be heard. In all cases, including cases of force majeure, the Chips Joint Undertaking will have the right to request from the Hosting Consortium to take remedial measures, as appropriate.
9. Before the Chips Joint Undertaking proceeds as described in paragraph 8 of this Article, it will send a formal notification to the Hosting Consortium which will include the following information:
 - a. the measures it intends to take and the start date of their application;
 - b. the Chips Joint Undertaking's intention to reduce any amount to be paid and the corresponding amount;
 - c. the reasons for reduction and/or other measures; and
 - d. invitation to the Hosting Consortium to submit observations within ten (10) calendar days following the date of receipt of the formal notification.
10. In all cases, where the fault, situation or event is attributable to error or negligence on the part of the Vendor and in cases referred to in Article 3(6), the Hosting Consortium shall not be considered as non-compliant, in breach of its obligations or liable.
11. In relation to the action(s) funded under the relevant grant agreement(s), the rules regarding non-compliance in the grant agreement(s) shall apply.

Article 26 - Liquidated Damages

1. If the Hosting Consortium fails to perform its obligations under this Agreement within the applicable time limits and under the conditions as set out in Article 25 of this Agreement, and such cases constitute significant and/or recurring and/or persistent non-compliance or breach of the obligations under the Agreement, the Chips Joint Undertaking, taking the principle of proportionality into account, may claim liquidated damages for each day or hour of delay using a formula that will be defined in relation and before any service is provided.

The aggregate maximum amount of liquidated damages payable per each calendar year under this Agreement will be limited to EUR [5 million].

2. The amount of such liquidated damages that results from the application of the formula above may

be reduced by the Chips Joint Undertaking if it is considered justified by the seriousness of the breach and the specific character and circumstances of the non-compliance or breach, taking the principle of proportionality into account.

3. Liquidated damages may be imposed in addition with other reductions in the Union's financial contribution.
4. The Chips Joint Undertaking must formally notify the Hosting Consortium of its intention to apply liquidated damages and the corresponding calculated amount.
5. The Hosting Consortium will have thirty (30) calendar days following the date of receipt to submit observations. Failing that, the decision of the Chips Joint Undertaking becomes enforceable the day after the deadline for submitting observations has elapsed.
6. If the Hosting Consortium submits observations, the Chips Joint Undertaking, taking into account the relevant observations, must notify the Hosting Consortium:
 - a. of the withdrawal of its intention to apply liquidated damages; or
 - b. of its decision to reduce the amount of the liquidated damages as appropriate; or
 - c. of its final decision to apply liquidated damages and the corresponding amount.
7. The parties expressly acknowledge and agree that any amount payable under this Article is not a penalty and represents a reasonable estimate of fair compensation for the damage incurred due to failure to comply with the Hosting Consortium's obligations within the agreed time limits set out in this Agreement.
8. Any claim for liquidated damages shall not affect the Hosting Consortium's actual or potential liability that exceeds the amount of damages provided for herein paid by the Hosting Consortium for the breach of the Chips Joint Undertaking's rights under other articles in this Agreement, and the relevant grant agreement(s).
9. In relation to the action funded under the relevant grant agreement(s), the rules in the grant agreement(s) shall apply in addition to the provisions of this Article.

Article 27 - Liability

1. The Chips Joint Undertaking shall not be liable for any damage or loss caused by the Hosting Consortium, including any damage or loss to third parties during or as a consequence of the performance of the Agreement, and the operation of the Chips JU pilot line on its behalf, unless the loss or damage was caused by wilful misconduct or gross negligence by the Chips Joint Undertaking.
2. The members of the Hosting Consortium are jointly responsible for the implementation of the action. If one of the Consortium members fails to implement their part of the action, the other Consortium members must ensure that this part is implemented by someone else (without being entitled to an increase of the maximum grant amount and subject to an amendment). Each member of the Hosting Consortium may be held responsible for damages up to the entire amount awarded by the Chips JU for the implementation of the Chips JU pilot line to this member.
3. In line with Article 1(2), the internal arrangements of the Hosting Consortium shall cover rules on liability. These rules shall specify how the members of the Consortium will share their responsibility in case one or more member(s) of the Hosting Consortium fail(s) to fulfil its/their obligations under the current Agreement.
4. When determining the liability of the Hosting Consortium under the Agreement the principle of proportionality shall be applied and the seriousness of the breach or non-compliance shall be taken

into account.

5. The Hosting Consortium will be liable for any loss or damage caused to the Chips Joint Undertaking during or as a consequence of the performance of the Agreement, unless liability is excluded under this Agreement, in particular according to Article 3.6. The aggregate maximum liability for damages of the Hosting Consortium based on the Agreement will not exceed the Chips JU's share of the residual value of the crucial pieces of equipment of the Chips JU pilot line at the moment of a complaint, including possible liquidated damages. However, if the damage or loss is caused by gross negligence or wilful misconduct of the Hosting Consortium or of its personnel or subcontractors, as well as in the case of an action brought against the Chips Joint Undertaking by a third party in relation to the gross negligence or wilful misconduct during or as a consequence of the performance of the Agreement by the Hosting Consortium, the Hosting Consortium will be liable for the whole amount of the damage or loss.
6. If a third party brings any action against the Chips Joint Undertaking in connection with the gross negligence or wilful misconduct during the performance of the Agreement, the Hosting Consortium must closely collaborate and assist the Chips Joint Undertaking in the legal proceedings, including by intervening in support of the Chips Joint Undertaking upon request.
7. If the liability of the Chips Joint Undertaking towards the third party is established and such liability is caused by the gross negligence or wilful misconduct of the Hosting Consortium during or as a consequence of the performance of the agreement, paragraphs 2 and 3 apply.
8. In relation to the action funded under the relevant grant agreement(s), the rules on liability for damages in the grant agreement(s) shall apply.

Article 28 - Insurance

1. The relevant Hosting Entity must take out or maintain an insurance policy to cover the operation of its hosting site and of the Chips JU pilot line and against risks and damage or loss relating to the performance of the Chips JU pilot line. Such insurance policy of the Hosting Consortium shall also cover instances of force majeure events customarily covered by such insurance. It must also take out supplementary insurance as reasonably required by standard practice in the industry. Upon request, the relevant Hosting Entity must provide evidence of insurance coverage to the Chips Joint Undertaking.

Article 29 - Termination of the Agreement/Withdrawal of a member

1. The Agreement may be terminated by mutual consent of the parties in case the subject matter of this contract has been fulfilled or becomes impossible to fulfil.
2. The Chips JU may decide to terminate the present Agreement in case the relevant grant agreement(s) has/have been terminated either by the Chips Joint Undertaking or by the Hosting Consortium.
3. In case of a withdrawal of a member of the Hosting Consortium, the consequences of such situation must be discussed in good faith between the Hosting Consortium, including the withdrawing member, and the Chips JU at least 6 months (unless otherwise agreed by the parties) before the effective date of this withdrawal to identify any adjustments required to ensure the continued proper operation of the Chips JU pilot line. In case no agreement can be reached, paragraph 1 shall apply.

Article 30 - Termination by the Chips Joint Undertaking of the Agreement for specific reasons

1. The Chips Joint Undertaking may terminate the Agreement if the Hosting Consortium does not remedy within sixty (60) calendar days from written notification any material or serious breach or

non-compliance issue falling under its responsibility concerning the following situations, unless manifestly such breach or non-compliance cannot by its nature be remedied:

- a) if the Hosting Consortium is unable, through its own fault, to obtain any permit or licence required for the performance of the agreement;
- b) the Hosting Consortium or any person that assumes unlimited liability for the debts of the Hosting Consortium is in one of the situations provided for in points (a) and (b) of Article 136(1) of the EU Financial Regulation¹¹;
- c) the Hosting Consortium is subject to any of the situations provided for in points (c) to (h) of Article 136(1) or to Article 136(2) of the EU Financial Regulation;
- d) the procedure for selecting the Hosting Consortium proves to have been subject to substantial errors, irregularities or fraud;
- e) the Hosting Consortium does not comply with applicable obligations under environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU¹²;
- f) the Hosting Consortium is in a situation that constitutes a conflict of interest or a professional conflicting interest as referred to in Article 11;
- g) a change to a member of the Hosting Consortium's legal, financial, technical, organisational or ownership situation is likely to substantially affect the implementation of the Agreement in an adverse manner.
- h) the Hosting Consortium does not comply with or is in serious breach of its obligations under this Agreement.
- i) If the Chips Joint Undertaking has terminated the relevant grant agreement(s).

Article 31 - Procedure and effect of termination

1. One Party must formally notify the other Party of its intention to terminate the Agreement and the grounds for termination. The termination will become effective on the date on which the Chips JU pilot line will no longer be hosted in the premises of the Hosting Entity/entities of the Hosting Consortium, unless otherwise agreed by the parties, taking into account the grounds for termination.
2. In such case, at the request of the Chips Joint Undertaking and regardless of the grounds for termination, the Hosting Consortium must provide all necessary assistance, including information, documents and files, to allow the Chips Joint Undertaking to complete, continue or transfer the Chips JU pilot line to a new Hosting Consortium, with minimum interruption or adverse effect on the quality or continuity of the operation of the pilot line. The parties may agree to draw up a transition plan detailing the transfer of the Chips JU pilot line.
3. In cases where the Agreement has been terminated on the grounds that the Hosting Consortium does not comply with its obligations under this Agreement, the Hosting Consortium must provide such assistance at no additional cost, except if it can demonstrate that it requires substantial

¹¹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018, p. 1–222.

¹² OJ L 94 of 28.03.2014, p. 65.

additional resources or means or otherwise causes additional expenses, in which case it must provide an estimate of the costs involved; the parties will negotiate a relevant arrangement in good faith.

4. If the Agreement has been terminated on the basis of Article 30 and subject to the aggregate liability cap as agreed in Article 27.5, the Hosting Consortium will be liable for direct damages incurred by the Chips Joint Undertaking as a result of the termination of the Agreement, including the cost of selecting another Hosting Consortium, unless the damage was caused by force majeure.
5. In all cases, the Parties must take all appropriate measures to minimise costs and prevent damage to the other party and to the Chips JU pilot line.

Article 32 - Force majeure

1. If a Party is affected by force majeure, it must immediately notify the other Party, stating the nature of the circumstances, their likely duration and the foreseeable effects.
2. The Party faced with force majeure may not be considered in breach of its obligations under the Agreement if it has been prevented from fulfilling them by force majeure. However, the Hosting Consortium shall make sure that the insurance policy it has taken out in accordance with Article 28 of this Agreement shall also cover instances of force majeure events customarily covered by such insurance
3. The parties must take all reasonable measures to limit any damage due to force majeure. They must do their best to resume the implementation of the action as soon as possible.
4. In relation to the action funded under the grant agreement(s), the rules on force majeure in the grant agreement will apply.

CHAPTER 5

Article 33 - Entry into force and duration

1. The Agreement shall enter into force on the date on which it is signed by the last party and shall remain in force until 31 December 2031.
2. The extension of the duration of the present Agreement shall be subject to the express written agreement of both parties.

Article 34 - Amendments

1. Any amendment to the Agreement shall be made by mutual agreement of the Parties in writing.
2. Any amendment shall not make changes to the Agreement that might alter its purpose.
3. 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.
4. Amendments shall enter into force on a date agreed by the Parties or, in the absence of such an agreed date, on the date on which the last Party signs the amendment.

Article 35 - Severability

1. Each provision of this Agreement shall be severable and distinct from the others. If a provision is or becomes illegal, invalid or unenforceable to any extent, it shall be severed from the remainder of the Agreement. This shall not affect the legality, validity or enforceability of any other provisions of the Agreement, which continue in full force and effect. The illegal, invalid or unenforceable provision shall be replaced by a legal, valid and enforceable substitute provision which corresponds as closely as possible to the real intent of the parties. The replacement of such a provision shall be made in accordance with Article 12. The Agreement shall be interpreted as if it had contained the substitute provision as from its entry into force.

Article 36 - Applicable law and settlement of disputes

1. The Agreement shall be governed by Union law, supplemented for any matter not covered by the rules applicable to the Chips JU or by other Union legal acts by the law of the Member State where the coordinator of the Hosting Consortium is located.
2. 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 must be submitted to the jurisdiction of the General Court or, on appeal, the Court of Justice of the European Union
3. Nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities which are accorded to Chips Joint Undertaking by its constituent act.

Article 37 - Communication between the parties

1. For the purpose of this Agreement, communications shall be sent to the following addresses:
 - a) Chips JU:
White Atrium Building
Avenue de la Toison d'Or 56-60
1060 Brussels
Belgium.
[insert email address]
 - b) Hosting Consortium:
[name]
[address]
[insert email address]

Article 38 - Form and means of communication

1. Any communication of information, notices or documents under the agreement shall:
 - a) be made in writing in paper or electronic format in the language of the Agreement;

- b) bear the Agreement number;
 - c) be made using the relevant communication details set out above; and
 - d) be sent by mail or email.
- 2. If a party requests written confirmation of an email within a reasonable time, the other party shall provide an original signed paper version of the communication as soon as possible.

*Article 39 - **Date of communications by mail and electronic mail (email)***

- 1. Any communication shall be deemed to have been made when the receiving party receives it, unless this Agreement refers to the date when the communication was sent.
- 2. Email shall be deemed to have been received on the day of dispatch of that email, provided that it is sent to the email address indicated in Article 37. The sending Party shall be able to prove the date of dispatch. In the event that the sending Party receives a non-delivery report, it shall make every effort to ensure that the other Party actually receives the communication by email or mail. In such a case, the sending Party shall not be held in breach of its obligation to send such communication within a specified deadline.
- 3. Mail sent to the Chips JU shall be deemed to have been received by the latter on the date on which the Chips JU registers it.
- 4. Formal notifications shall be considered to have been received on the date of receipt indicated in the proof received by the sending Party that the message was delivered to the specified recipient.

SIGNATURES

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Hosting Agreement.

The coordinator, for the Hosting Consortium

For the JU

Annex I Service Level Agreement (SLA) - Required Hosting Activities

The Hosting Consortium is required to provide the following services relevant to the hosting of the Chips JU pilot line:

1. Provide the Technical Infrastructure including all facility management necessary to the operation of the Chips JU pilot line according to the technical specifications of the equipment of the pilot line to be acquired.
2. The Hosting Consortium undertakes to execute the setup and integration of the pilot line to its completion as described in the EoI proposal such that the services described in the EoI can be provided and to organize the access to interested parties according to the description in the EoI proposal.
3. Ensure the operation of the Chips JU pilot line to enable users to access the services for the duration of the Agreement.
4. Provide the R&D services required to operate the Chips JU pilot line to enable users to access the pilot line for the duration of the Agreement.
5. Ensure the safety and security of the installed equipment and environment.
6. Put in place a certified audit procedure covering the operational expenses of the Chips JU pilot line and the access by the users and to submit an audit report and data on access once a year to the Chips

Annex III. Description of Action (Application Ref: PL 5) (Confidential)

Here comes the selected EoI proposal

Annex III. Summary table of financing of the Pilot Line (Confidential)

Annex IV. List of crucial pieces of equipment including retroactive equipment (Confidential)