



SMARTEES2 Service Delivery Agreement

This SMARTEES2 Service Delivery Agreement is setting the contractual frame for technical/non-technical services support committing the Innovative Company and Other Third Parties, hereinafter referred to as the “Agreement”, is entered into by and between:

..., an organisation under the laws of ..., having its registered office at ..., herein represented by ..., hereinafter referred to as “Service Delivery Manager” (“SDM”).

And

..., an organisation under the laws of ..., having its registered office at ..., herein represented by ..., hereinafter referred to as “Innovative Company”

OPTIONAL:

And

..., an organisation under the laws of ..., having its registered office at ..., herein represented by ..., hereinafter referred to as “Business Partner” (*Party of the CA*)

OPTIONAL:

And

..., an organisation under the laws of ..., having its registered office at ..., herein represented by ..., hereinafter referred to as “SMARTEES2 Third Party involved in the Application Experiment” (*except RTOs*)

OPTIONAL:

And

..., an organisation under the laws of ..., having its registered office at ..., herein represented by ..., hereinafter referred to as “SMARTEES2 Third Party RTO involved in the Application Experiment”

Hereinafter sometimes individually or collectively referred to as “Party” or “Parties”.

Whereas CEA, CPI, TNO, VTT, EUT, FHG, IMEC, CeNTI, BLM, EBN, AMI, MINA, DSP and OES (hereinafter collectively referred as the “SMARTEES2 Beneficiaries” and/or “SMARTEES2 Partners” and/or “SMARTEES2 Parties” participate to the H2020 project entitled “Sustainable Marketplace for the Adoption, Ramp-up and Transfer of Emerging Electronics Solutions 2” (hereinafter the “SMARTEES2 Project”).

Whereas the SMARTEES2 Beneficiaries entered into a Grant Agreement N° 872076 with the European Commission (the “Grant Agreement” or “GA”) and signed together in 2020 a Consortium Agreement with respect to the SMARTEES2 Project (the “Consortium Agreement” or “CA”).

Whereas the SMARTEES2 Project involves Financial Support to Third Parties (FSTP) to SME and Midcap companies beneficiaries through a cascade funding scheme (hereinafter “Cascade Funding”) as technical/non-technical services.



Whereas further to an open call for a specific Application Experiment as described in Annex 2 “JIP (Joint Implementation Plan)”, the Innovative Company has been selected by the Evaluation Panel of the SMARTEES2 Project to implement such Application Experiment.

Whereas the Innovative Company will implement such Application Experiment with the participation of the Service Delivery Manager, [OPTIONAL: and with a Business Partner (party of the CA)] [OPTIONAL: and with other AEs Beneficiaries] identified in Annex 2 “JIP (Joint Implementation Plan”).

Whereas the Service Delivery Manager is willing to provide financial support to Third Party Beneficiaries for the implementation of such Application Experiment (AE) and ”Third Party Beneficiaries” are willing to receive such support under the terms and conditions of this Agreement. FSTP provides a maximum of seventy percent (70 %) funding rate of all activities implemented in the AE by the FSTP beneficiary. This corresponds to a remaining thirty percent (30 %) funding of all activities by the Third Parties Beneficiary, also called “In-Kind contribution”.

In case of Third Party RTO, FSTP will be replaced by a direct financial support, provisioned on the “other direct cost” budget of the Coordinator.

Whereas in accordance with the Grant Agreement and the Consortium Agreement, the Service Delivery Manager shall sign an agreement with the Innovative Company, [OPTIONAL: and with a Business Partner] [OPTIONAL: and other AEs Beneficiaries] compliant with the GA and CA.

Whereas the Service Delivery Manager is responsible for the execution of this Agreement with the Innovative Company, [OPTIONAL: and with a Business Partner] [OPTIONAL: and with other AEs Beneficiaries] and for the monitoring of the Application Experiment.

Now, therefore it has been agreed as follows:



1. DEFINITIONS

Words beginning with a capital letter shall have the meaning defined in the preamble of the Agreement or in this Section:

- 1.1 Access Rights** means rights to use Results or Background under the terms and conditions laid down in this Agreement.
- 1.2 An Affiliated Entity** in relation to a SMARTEES2 Beneficiary, means any legal entity which directly or indirectly controls, is controlled by, or is under common control with that Party. For the purposes of this definition, “control” shall mean (a) direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity or (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned, provided that this entity is listed in Annex 2 “Joint Implementation Plan”. Any such legal entity shall be deemed to be an Affiliate of such Party only as long as such ownership or such control exists.
- However, the following relationships between legal entities shall not in themselves constitute controlling relationships:
- (a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
 - (b) the legal entities concerned are owned or supervised by the same public body.
- 1.3 Agreement** means this Service Application Experiment Contract, together with its Annexes (called “Service Delivery Agreement”).
- 1.4 Application Experiment (AE)** means the experiment detailed in Annex 2 “JIP” to be focused on the ICs business cases selected through the SMARTEES2 Open Call process. The AEs will commit different parties including Consortium Agreement party(ies), ICs and optionally Other Third Party(ies).
- 1.5 AE(s) Partners** means all the partners involved in an AE, whether they are parties of the Consortium Agreement or third parties to the Consortium Agreement and which are detailed for each AE in Annex 2. This definition includes, without limitation, Consortium Agreement parties, ICs and Other Third Parties.
- 1.6 Background** means any data, know-how or information – whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights – that:
- (a) is held by a Party before the effective date of the Service Delivery Agreement, and
 - (b) is Needed by another Party to implement its own tasks under the Application Experiment or to Exploit its own Results,
- but solely to the extent that such data, information, know-how and/or intellectual property rights are introduced into the Application Experiment by the owning Party.
- 1.7 Coordinator** means the legal entity acting as the intermediary between the Parties and the Funding Authority. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement, the Consortium Agreement and this Service Delivery Agreement.
- 1.8 Exploitation or Exploit** means the direct or indirect use of Results in (a) further research activities other than those covered by the Application Experiment, or (b) in developing, creating or marketing a product or process, or (c) in creating and providing a service, or (d) in standardisation activities.



- 1.9 Evaluation Panel (EP)** will be chaired by AMI and will be composed of technical and business evaluators internal to SMARTEEs2 consortium and also of external experts. Members of the Evaluation Panel will rotate through the 5 cut-off evaluation dates. The Evaluation Panel will have responsibility to:
- Evaluate (score and comment each section of the evaluation form) all application experiment proposals submitted to SMARTEEs2 Call;
 - Validate IC status;
 - Based on the outcome of the evaluation, select ICs for co-development of Joint Implementation Plans;
 - Assign a Service Delivery Manager from the consortium to oversee the co-development of Joint Implementation Plans and the associated Service Delivery Agreements;
 - Present and discuss the outcome of each set of evaluation with the Project Steering Group and made available to the General Assembly;
 - Work with the SMARTEEs2 Helpdesk to communicate feedback of evaluation outcomes to ICs;
 - Award successful ICs with a Voucher based on their own needs or specific needs to access complementary services from third parties.
- 1.10 Fair and Reasonable conditions** means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for Access Rights, for example the actual or potential value of the Results or Background to which Access Rights are requested and/or the scope, duration and other characteristics of the exploitation envisaged. To fall within Fair and Reasonable conditions, the conditions must also be non-discriminatory.
- 1.11 Financial Support to Third Parties (FSTP)** means the cash element (Voucher) transferred by the Service Delivery Manager to any SME or Mid Cap parties of the AE for the implementation of the A E as detailed in Annex 2 “JIP”.
- 1.12 Force Majeure** means any situation or event that:
- prevents either party from fulfilling their obligations under the Agreement,
 - was unforeseeable, exceptional situation and beyond the parties’ control,
 - was not due to error or negligence on their part (or on the part of third parties involved in the action), and
 - proves to be inevitable in spite of exercising all due diligence.
- The following cannot be invoked as force majeure:
- any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure,
 - labour disputes or strikes, or
 - financial difficulties.
- 1.13 Innovative Company(ies)** means the legal entities (start-up, SME and midcap) chosen through open calls in accordance with the Grant Agreement and the Consortium Agreement. The Innovative Companies implement Application Experiments with the objective to develop innovative European TOLAE-enabled products and/or services. They are third parties since they are not party to the Grant Agreement or the Consortium Agreement. They can also be called “ICs”.
- 1.14 Intellectual Property Rights Policy** means the Policy set out at Section 5 of this Agreement.
- 1.15 Needed** means in respect of executing or carrying out the Application Experiment, and/or in respect of Exploitation of Results, technically essential and:
- (a) where intellectual property rights are concerned, that those intellectual property rights would be infringed without Access Rights being granted under this Agreement ;
 - (b) where Confidential Information is concerned, only Confidential Information which has been



disclosed during the Application Experiment may be considered as technically essential, except as otherwise agreed in writing between the Parties.

1.16 Results means any tangible or intangible outputs of the Application Experiment, such as data, knowledge and information whatever their form or nature, which are generated in the Application **Experiment**, as well as any intellectual property rights attached to them.

1.17 Other Third Party(ies) means a legal entity that can be, without limitation a supplier (technology and/or non-technology provider), that is neither Consortium Agreement party nor an IC, **signatories** to the SDA and which contributes to the execution of an AE. This definition includes also non-profit (e.g. RTOs) organisations..

2. CONDITIONS FROM THE GRANT AGREEMENT AND THE CONSORTIUM AGREEMENT REFLECTED IN THE AGREEMENT

The Service Delivery Manager receives funding from the European Commission via the Coordinator for organizing the Application Experiment. Under the SMARTEES2 Grant Agreement and the Consortium Agreement, some of the obligations have to be imposed to the Innovative Company and to Other Third Party. Those obligations are reflected in this Agreement. The specific obligations that the Innovative Company and the Other Third Party must ensure described in the Grant Agreement are reproduced in Annex 1.

The Innovative Company and the Other Third Party(ies) acknowledge and agree that these obligations comprised in this Agreement are fully applicable to them and shall do everything that is necessary to comply with these obligations, it being understood that the Innovative Company and the Other Third Party(ies) are only bound by this Agreement and not by the Grant Agreement or Consortium Agreement.

3. TERMS AND CONDITIONS FOR THE FINANCIAL SUPPORT

3.1 The AE Partners shall take part in the Application Experiment in accordance with the state of the art.

The AE Partners shall carry out the tasks according to the schedule set forth in Annex 2 “JIP” and shall report to the Service Delivery Manager on the activities’ progress in regular intervals as indicated in Annex 2 “JIP”.

Such technical reports shall contain detailed information on the results generated by the AE Partners and in particular by the Innovative Company and the Other Third Party(ies).

3.2 The Service Delivery Manager shall give Financial Support for the Application Experiment carried out by the Innovative Company, within the limits and in accordance with the schedule of payments specified in Annex 2 “Joint Implementation Plan”.

For each Application Experiment, a Service Delivery Manager will be selected. The financial support will take the following form:

The Financial Support shall take the form of a lump-sum(Voucher) of seventy percent (70%) of the eligible costs of the Application Experiment incurred by the IC and the Other Third Party, accordingly to H2020 Funding Rules for Innovation Actions, and within the limit of the ceiling defined in the guidelines of the SMARTEES2 Project.

For each AE, the IC and the Other Third Party, except Third Parties RTO, will contribute financially up to thirty percent (30%) of the eligible costs of the Application Experiment incurred



All AE Partners will jointly contribute to the Final (technical) Reporting (Annex 3) and associated deliverables, which will be delivered to the Coordinator at the end of the AE. The Coordinator will share the technical report with the SMARTEES2 Partners except for those parts marked as Confidential (see paragraph 5). The Innovative Company and all Voucher beneficiaries shall use the “Implementation Plan” in Annex 2. The following elements shall at least be included in this technical report:

- a) The Identification of the Application Experiment
- b) The identification of milestones, based on the completion of several tasks.
- c) Detailed information on the deliverable achieved for the implementation of the Application Experiment.
- d) Value achieved by the use of Flexible and Wearable Electronics in the target application (form factor, weight, energy consumption, biocompatibility,...) of the AE that was not possible with standard technologies.

No payment will be made by the Service Delivery Manager if no sufficient evidence document is presented by the Innovative Company and the Other Third Parties.

In addition, and in order for payments to be made, the IC and Other Third Party will have to provide the table of estimated costs (in Annex 2) and the final report presenting the cost statement (Annex 2). Maximum Voucher request can be claimed only if in-kind contribution reaches the level set by H2020 funding rules.

- 3.3** The Service Delivery Manager will transfer the amount of the Financial Support to the Innovative Company and to the Other Third Party on the basis of (i) a written payment request by the Innovative Company and by the Other Third Party to be sent to the Service Delivery Manager together with:

A technical report with deliverables validated by the legal representative of the Innovative Company and of the Other Third Party in accordance with the schedule set forth in Annex 2 “JIP” and (ii) a decision of the Service Delivery Manager for awarding the amount to the Innovative Company and to the Other Third Parties, provided the terms and conditions of this Agreement are complied with, in particular after the written validation by the Service Delivery Manager of the corresponding deliverable(s) identified in Annex 2.

The payment shall be made as indicated in Annex 2 after the written validation of the payment request by the Service Delivery Manager however always provided that the conditions listed in this Section 3 are met by the Innovative Company and Other Third Parties.

- 3.4** Voucher payment modalities (initial and final) payments will be discussed and agreed upon during the kick-off meeting of SMARTEES2 Project. This will be acted inside the General Assembly report.

4. LIABILITY

- 4.1** The AE Partners shall comply with all mandatory applicable laws, rules and regulations, including, but not limited to safety, security, welfare, social security and fiscal laws, rules and regulations.
- 4.2** The AE Partners shall not be entitled to act or to make legally binding declarations on behalf of the Service Delivery Manager or any other SMARTEES2 Beneficiaries and shall indemnify all of the latter from any third party claim resulting from a breach of these obligations.
- 4.3** The contractual liability of the Service Delivery Manager under this Agreement shall in any case be limited to the amount of the Financial Support provided in the frame of the AE. The Service Delivery Manager shall not in any case be liable for any indirect or consequential damages such as:



- loss of profits, interest, savings, shelf-space, production and business opportunities;
- lost contracts, goodwill, and anticipated savings;
- loss of or damage to reputation or to data;
- costs of recall of products; or
- any other type of indirect, incidental, punitive, special or consequential loss or damage.

By exception, the maximum amount of liability to be taken into account in case of breach of confidentiality and/or infringement of the intellectual property rights of any other Party or any Affiliated Entity, which is the result of any activity or use of such intellectual property rights that exceeds the scope of the Access Rights granted by or pursuant to Service Delivery Agreement shall not exceed twice the amount of the financial support provided in the frame of the AE.

- 4.4** This limitation of liability (4.3) shall not apply in case of wilful act or gross negligence.
- 4.5** The Innovative Company and the Other Third Parties shall fully and exclusively bear the risks in connection with the Application Experiment for which Financial, technical/non technical Support is granted by the Service Delivery Manager. The Innovative Company and the Other Third Parties shall indemnify the SMARTEES2 Beneficiaries and the Service Delivery Manager for all damages, penalties, costs and expenses which the SMARTEES2 Beneficiaries or the Service Delivery Manager as a result thereof would incur or have to pay to the European Commission or to any third parties with respect to such Application Experiment financially supported and/or for any damage in general which the SMARTEES2 Beneficiaries or the Service Delivery Manager incur as a result thereof. In addition, should the European Commission have a right to recovery against the Service Delivery Manager or another SMARTEES2 Beneficiary regarding the Financial Support granted under this Agreement, the Innovative Company and the Other Third Parties shall pay the sums in question in the terms and the date specified by the Service Delivery Manager. Moreover, the Innovative Company and the Other Third Party shall indemnify and hold the SMARTEES2 Beneficiaries and the Service Delivery Manager, their respective officers, directors, employees and agents harmless from and against all repayments, loss, liability, costs, charges, claims or damages that result from or arising out of any such recovery action by the European Commission.
- 4.6** In respect of any information or materials (including Results and Background) supplied by one Party to another Party or to a SMARTEES2 Beneficiary, or by a SMARTEES2 Beneficiary involved in the applicable Application Experiment to a Party, no warranty or representation of any kind is made, given or implied as to the sufficiency, accuracy or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient, shall in all cases be entirely and solely liable for the use to which it puts such information and materials (including Results and Background), and
- there is no liability in case of infringement of proprietary rights of a third party resulting from any Access Rights.

5 INTELLECTUAL PROPERTY RIGHTS POLICY

AE Partners acknowledge the terms of the “Intellectual Property Rights Policy” defined hereinafter. AE Partners agree that it will comply with the Intellectual Property Rights Policy to ensure that the Service Delivery Manager will always be able to comply with such terms towards the other SMARTEES2 Beneficiaries.



5.1 General Principle regarding Ownership

Results are owned by the Party that generates them.

5.2 Joint Results

If in the course of carrying out work on the Project, a Result is generated by two or more Parties or their Affiliated Entities involved in the Project, and if the contributions to or features of such Result form an indivisible part thereof to the extent that none of the said Parties could reasonably claim full ownership of this Result, such Result shall be jointly owned by them in according to their share of contribution, unless differently agreed by the Parties concerned.

The joint owners shall execute a joint ownership agreement regarding the allocation and the terms and conditions of Exploitation of the joint Result as soon as possible. They shall do all their best efforts to execute such joint ownership agreement at the latest twelve (12) months as from the date of generation of such joint Results.

The joint owners shall agree on all protection measures, on their joint ownership shares and on the division of related costs in a joint ownership agreement to be negotiated in good faith.

Explanatory note: For each Application Experiment, and at the time the selected Service Delivery Manager will issue the Service Delivery Agreement as described in Annex 2, the Service Delivery Manager shall make, at his own discretion, the choice of one of the options hereunder stated regarding the exploitation of Joint Foreground :

OPTION 1 :

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
- each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:

- (a) at least 45 calendar days advance notice; and
- (b) Fair and Reasonable compensation.

OPTION 2 :

In case of joint ownership, each of the joint owners shall be entitled to Exploit the joint Results as it sees fit, and to grant non exclusive licences, without obtaining any consent from, paying compensation to, or otherwise accounting to any other joint owner, unless otherwise agreed between the joint owners.

5.3 Access Rights

For the purpose of this article 5.3, Background shall mean the Background as listed in the Service Delivery Agreement and validated by the Parties for the concerned Application Experiment.

Access Rights to Background and Results may be requested by each AE Partner only if these Access Rights belong to a Party and if the following conditions are fulfilled, and unless specific restrictions inserted in Annex 2 “JIP”:

- Subject to the prior written approval of the owning Party, Access Rights on Background or Results to Innovative Companies and/or Other Third Party, if Needed for implementation of its/their own tasks in the Application Experiment, shall be granted for the duration of the Application Experiment on royalty-free basis;



- Subject to the prior written approval of the owning Party and upon separate written bilateral agreement, Access Rights on Background or Results to Innovative Companies and/or Other Third Party, if Needed for Exploitation of their own Results obtained through the Application Experiment, shall be granted on Fair and Reasonable conditions. A request for Access Rights for Exploitation may be made up to twelve (12) months after the end of the Application Experiment.

Innovative Companies and/or Other Third Parties which obtain Access Rights in return will fulfil confidentiality obligations as determined in the Section 6.

For the sake of clarity, a Party participating to an Application Experiment shall not grant to an Innovative Company and/or to an Other Third Party any Access Rights to another Party's Background or Results without the owning Party's prior written authorization.

The SMARTEES2 Beneficiaries involved in the Application Experiment enjoy the same Access Rights on Background or Results owned by the Innovation Company and/or by an Other Third Party for implementation of the Application Experiment or, Exploitation of their Results, under the same conditions mentioned hereinabove.

For the avoidance of doubt, any grant of Access Rights not covered by this Section shall be at the absolute discretion of the owner and subject to such terms and conditions as may be agreed between the owner and recipient.

6 CONFIDENTIALITY

6.1 All information of whatever nature and in whatever form or mode of communication, which is disclosed by a Party (the "**Disclosing Party**") to another Party (the "**Recipient**") in connection with the Application Experiment during its implementation and which has been explicitly marked as "confidential" at the time of disclosure, or when disclosed orally or in intangible form has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within fifteen (15) working days from oral or intangible disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".

The Recipients hereby undertake for the duration of the Application Experiment and a period of five (5) years after the end of the Application Experiment:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party other than its Affiliated Entities without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient to its employees or to its Affiliated Entities shall take place on a strict need-to-know basis; and
- except as required for continuing Access Rights, to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable mandatory laws and regulations (i.e. public policy legislation).

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees, other staff members or third parties (subcontractors, Affiliated Entities) if previously authorized involved in the Application Experiment and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Application Experiment and/or after the termination of the contractual relationship with each of them.

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



- the Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure without any obligation of confidentiality to the Disclosing Party or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order subject to the last paragraph of this Section.

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

Each Recipient or Disclosing Party shall promptly advise the other Recipient or Disclosing Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorized disclosure, misappropriation or misuse.

If a Party becomes aware that it will be required to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure:

- notify the Disclosing Party of said request, and
- comply to the extent possible with the Disclosing Party's reasonable instructions to protect the confidentiality of the information at the Disclosing Party's expense, and
- make such disclosure only to the extent it is compelled.

6.2 As far as Service Delivery Manager is concerned, disclosure of Confidential Information to the European Commission shall be governed by the terms of the Grant Agreement and to the SMARTEES2 Beneficiaries by the Consortium Agreement.

7 DISSEMINATION

Each Party agrees that any dissemination activity (including publications, presentations or contributions to any standards organisation) by the Innovative Company and/or by an Other Third Party is subject to the prior written approval of the other Parties.

The Service Delivery Manager [OPTIONAL : and the other SMARTEES2 Beneficiaries] is/are entitled to include the main issues and information regarding the Application Experiment in their reporting towards the European Commission, subject to prior written notification to the Innovative Company and/or to the Other Third Party.

The Service Delivery Manager and the other AE Partners are entitled to include the main issues and information regarding the Application Experiment and in particular value elements (labeled "d" of the technical report in their ongoing marketing effort for the SMARTEES2 initiative. These marketing efforts encompass physical (events, meetings, posters, leaflets...) as well as online (website, social media,...) elements.



8 CHECKS AND AUDITS

The Innovative Company and the Other Third Party undertake to provide any detailed information, including information in electronic format, requested by the European Commission or by any other outside body authorised by the European Commission to check that the Application Experiment and the provisions of this Agreement are being properly implemented.

The Innovative Company and the other AE Beneficiaries shall keep at the European Commission disposal all original documents, especially accounting and tax records, or, in exceptional and duly justified cases, certified copies of original documents relating to the Agreement, stored on any appropriate medium that ensures their integrity in accordance with the applicable national legislation, for a period of five years from the date of payment of the balance specified in the grant agreements.

The AE Partners agree that the European Commission may have an audit of the use made of the Financial Support carried out either directly by the European Commission staff or by any other outside body authorised to do so on its behalf. Such audits may be carried out throughout the period of implementation of the Agreement until the balance is paid and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the European Commission.

The AE Partners undertake to allow European Commission staff and outside personnel authorised by the European Commission the appropriate right of access to the sites and premises of the Innovative Company and of AE Partners and to all the information, including information in electronic format, needed in order to conduct such audits.

In accordance with Union legislation, the European Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) may carry out spot checks and inspections of the documents of the Innovative Company and the Other Third Parties, and of any recipient of Cascade Funding, including at the premises of the AE Partners, in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, the inspection findings may lead to recovery decisions by the European Commission. The Articles 22 and 23 of the Grant Agreement, reproduced in Annex 1, also apply to the Innovative Company.

9 TERMINATION

The Service Delivery Manager can terminate this Agreement with immediate effect through written notice to the other Parties involved in the AE:

- if a Party is in breach of any of its material obligations under this Agreement, which breach is not remediable, or, if remediable, has not been remedied within thirty (30) days after written notice to that effect from the party not in breach,
- if, to the extent permitted by law, the Innovative Company and/or another the Other Third Party(ies) is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with its creditors, has suspended business activities, or is the subject of any other similar proceeding concerning those matters, or
- if the Innovative Company and/or the Other Third Party(ies) is subject to an event of Force Majeure, which prevents the Innovative Company and/or the Other Third Party(ies) from correct performance of its obligations hereunder and such circumstances have lasted, or can reasonably be expected to last more than three (3) months.

Access Rights granted to the Innovative Company and/or Other Third Party(ies) shall cease immediately upon the effective date of termination.



10 CONCLUDING CONDITIONS

- 10.1** This Agreement shall enter into force on the date as written in the Annex 2 “JIP”. Any ancillary agreements, amendments, additions or modifications to this Agreement shall be made in writing and signed by the Parties confirming that it agrees.
- 10.1.1** The Innovative Company’s consistent level in its respective field of expertise played a key role in the selection of the Innovative Company to implement the Application Experiment. Any total or partial transfer of provisions and the rights and duties it entails is subject to the prior formal approval of all signatories. The same applies to all Other Third Parties.
- 10.1.2** Any subcontract by the Innovative Company and/or by the Other Third Parties concerning some of its tasks under this Agreement requires the prior written consent of the Service Delivery Manager and does not affect its own obligations resulting from this Agreement. The Innovative Company and/or the Other Third Parties shall secure that the subcontractor will comply with all obligations – especially coming from the Grant Agreement, and with regard to confidentiality – resulting from this Agreement and that the results attained by the subcontractor will be available in accordance with Section 5.
- 10.2** If any provision of this Agreement is determined to be illegal or in conflict with the applicable law, the validity of the remaining provisions shall not be affected. The ineffective provision shall be replaced by an effective provision which is economically equivalent. The same shall apply in case of a gap.
- 10.3** This Agreement shall be governed by and construed in accordance with the laws of Belgium.
- 10.4** Any disagreement or dispute which may arise in connection with this Agreement and which the Parties are unable to settle by mutual agreement will be brought before the courts of Brussels, Belgium.
- 10.5** List of Annexes:
Annex 1 Grant Agreement specific obligations
Annex 2 Joint Implementation Plan
Annex 3 Final Report Template



Done in xx (XX) originals, one for each Party.

Signature Innovative Company (END-USER):	Signature SMARTEES2 (RTO) Service Delivery Manager:
Date :	Date :

OPTIONAL

Signature SMARTEES2 Business Partner
Date :
CA Party (Business supplier)

OPTIONAL

Signature THIRD PARTY SUPPLIER(S)
Date :
<i>TP RTO or TP SME (Tech or non tech suppliers)</i>



ANNEX 1 - GRANT AGREEMENT SPECIFIC OBLIGATIONS

As an indirect beneficiary, the Innovative Company and the other Third Party Beneficiaries have to fulfill the obligations described in article 22, 23, 32, 35, 36, 38 and 46 of the Grant Agreement. These sections are part of the Agreement. In case on contradiction between these sections and the Agreement, the terms of the Agreement will prevail.

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

22.1 Checks, reviews and audits by the Commission

22.1.1 Right to carry out checks

The Commission will — during the implementation of the action or afterwards — check the proper implementation of the action and compliance with the obligations under the Agreement, including assessing deliverables and reports.

For this purpose the Commission may be assisted by external persons or bodies.

The Commission may also request additional information in accordance with Article 17. The Commission may request beneficiaries to provide such information to it directly.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

22.1.2 Right to carry out reviews

The Commission may — during the implementation of the action or afterwards — carry out reviews on the proper implementation of the action (including assessment of deliverables and reports), compliance with the obligations under the Agreement and continued scientific or technological relevance of the action.

Reviews may be started up to two years after the payment of the balance. They will be formally notified to the coordinator or beneficiary concerned and will be considered to have started on the date of the formal notification.

If the review is carried out on a third party (see Articles 10 to 16), the beneficiary concerned must inform the third party.

The Commission may carry out reviews directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the coordinator or beneficiary concerned of the identity of the external persons or bodies. They have the right to object to the appointment on grounds of commercial confidentiality.

The coordinator or beneficiary concerned must provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources). The Commission may request beneficiaries to provide such information to it directly.

The coordinator or beneficiary concerned may be requested to participate in meetings, including with external experts.

For **on-the-spot** reviews, the beneficiaries must allow access to their sites and premises, including to



external persons or bodies, and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the review findings, a '**review report**' will be drawn up.

The Commission will formally notify the review report to the coordinator or beneficiary concerned, which has 30 days to formally notify observations ('**contradictory review procedure**').

Reviews (including review reports) are in the language of the Agreement.

22.1.3 Right to carry out audits

The Commission may — during the implementation of the action or afterwards — carry out audits on the proper implementation of the action and compliance with the obligations under the Agreement.

Audits may be started up to two years after the payment of the balance. They will be formally notified to the coordinator or beneficiary concerned and will be considered to have started on the date of the formal notification.

If the audit is carried out on a third party (see Articles 10 to 16), the beneficiary concerned must inform the third party.

The Commission may carry out audits directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the coordinator or beneficiary concerned of the identity of the external persons or bodies. They have the right to object to the appointment on grounds of commercial confidentiality.

The coordinator or beneficiary concerned must provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Agreement. The Commission may request beneficiaries to provide such information to it directly.

For **on-the-spot** audits, the beneficiaries must allow access to their sites and premises, including to external persons or bodies, and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the audit findings, a '**draft audit report**' will be drawn up.

The Commission will formally notify the draft audit report to the coordinator or beneficiary concerned, which has 30 days to formally notify observations ('**contradictory audit procedure**'). This period may be extended by the Commission in justified cases.

The '**final audit report**' will take into account observations by the coordinator or beneficiary concerned. The report will be formally notified to it.

Audits (including audit reports) are in the language of the Agreement.

The Commission may also access the beneficiaries' statutory records for the periodical assessment of unit costs or flat-rate amounts.

22.2 Investigations by the European Anti-Fraud Office (OLAF)



Under Regulations No 883/2013¹⁶ and No 2185/96¹⁷ (and in accordance with their provisions and procedures), the European Anti-Fraud Office (OLAF) may — at any moment during implementation of the action or afterwards — carry out investigations, including on-the-spot checks and inspections, to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU.

22.3 Checks and audits by the European Court of Auditors (ECA)

Under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 161 of the Financial Regulation No 966/2012¹⁸, the European Court of Auditors (ECA) may — at any moment during implementation of the action or afterwards — carry out audits.

The ECA has the right of access for the purpose of checks and audits.

22.4 Checks, reviews, audits and investigations for international organisations

Not applicable

22.5 Consequences of findings in checks, reviews, audits and investigations — Extension of findings

22.5.1 Findings in this grant

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to the rejection of ineligible costs (see Article 42), reduction of the grant (see Article 43), recovery of undue amounts (see Article 44) or to any of the other measures described in Chapter 6.

Rejection of costs or reduction of the grant after the payment of the balance will lead to a revised final grant amount (see Article 5.4).

Findings in checks, reviews, audits or investigations may lead to a request for amendment for the modification of Annex 1 (see Article 55).

Checks, reviews, audits or investigations that find systemic or recurrent errors, irregularities, fraud or breach of obligations may also lead to consequences in other EU or Euratom grants awarded under similar conditions (**‘extension of findings from this grant to other grants’**).

Moreover, findings arising from an OLAF investigation may lead to criminal prosecution under national law.

¹⁶ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.09.2013, p. 1).

¹⁷ Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

¹⁸ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).



22.5.2 Findings in other grants

The Commission may extend findings from other grants to this grant ('**extension of findings from other grants to this grant**'), if:

- (a) the beneficiary concerned is found, in other EU or Euratom grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant and
- (b) those findings are formally notified to the beneficiary concerned — together with the list of grants affected by the findings — no later than two years after the payment of the balance of this grant.

The extension of findings may lead to the rejection of costs (see Article 42), reduction of the grant (see Article 43), recovery of undue amounts (see Article 44), suspension of payments (see Article 48), suspension of the action implementation (see Article 49) or termination (see Article 50).

22.5.3 Procedure

The Commission will formally notify the beneficiary concerned the systemic or recurrent errors and its intention to extend these audit findings, together with the list of grants affected.

22.5.3.1 If the findings concern **eligibility of costs**: the formal notification will include:

- (a) an invitation to submit observations on the list of grants affected by the findings;
- (b) the request to submit **revised financial statements** for all grants affected;
- (c) the **correction rate for extrapolation** established by the Commission on the basis of the systemic or recurrent errors, to calculate the amounts to be rejected if the beneficiary concerned:
 - (i) considers that the submission of revised financial statements is not possible or practicable or
 - (ii) does not submit revised financial statements.

The beneficiary concerned has 90 days from receiving notification to submit observations, revised financial statements or to propose a duly substantiated **alternative correction method**. This period may be extended by the Commission in justified cases.

The Commission may then start a rejection procedure in accordance with Article 42, on the basis of:

- the revised financial statements, if approved;
- the proposed alternative correction method, if accepted or
- the initially notified correction rate for extrapolation, if it does not receive any observations or revised financial statements, does not accept the observations or the proposed alternative correction method or does not approve the revised financial statements.

22.5.3.2 If the findings concern **substantial errors, irregularities or fraud or serious breach of obligations**: the formal notification will include:



- (a) an invitation to submit observations on the list of grants affected by the findings and
- (b) the flat-rate the Commission intends to apply according to the principle of proportionality.

The beneficiary concerned has 90 days from receiving notification to submit observations or to propose a duly substantiated alternative flat-rate.

The Commission may then start a reduction procedure in accordance with Article 43, on the basis of:

- the proposed alternative flat-rate, if accepted
- or
- the initially notified flat-rate, if it does not receive any observations or does not accept the observations or the proposed alternative flat-rate.

22.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, any insufficiently substantiated costs will be ineligible (see Article 6) and will be rejected (see Article 42).

Such breaches may also lead to any of the other measures described in Chapter 6.

ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION

23.1 Right to evaluate the impact of the action

The Commission may carry out interim and final evaluations of the impact of the action measured against the objective of the EU programme.

Evaluations may be started during implementation of the action and up to five years after the payment of the balance. The evaluation is considered to start on the date of the formal notification to the coordinator or beneficiaries.

The Commission may make these evaluations directly (using its own staff) or indirectly (using external bodies or persons it has authorised to do so).

The coordinator or beneficiaries must provide any information relevant to evaluate the impact of the action, including information in electronic format.

23.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the Commission may apply the measures described in Chapter 6.

SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS

SUBSECTION 1 GENERAL

ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY



23a.1 Obligation to take measures to implement the Commission Recommendation on the management of intellectual property in knowledge transfer activities

Beneficiaries that are universities or other public research organisations must take measures to implement the principles set out in Points 1 and 2 of the Code of Practice annexed to the Commission Recommendation on the management of intellectual property in knowledge transfer activities¹⁹.

This does not change the obligations set out in Subsections 2 and 3 of this Section.

The beneficiaries must ensure that researchers and third parties involved in the action are aware of them.

23a.2 Consequences of non-compliance

If a beneficiary breaches its obligations under this Article, the Commission may apply any of the measures described in Chapter 6.

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS

32.1 Obligation to take measures to implement the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers

The beneficiaries must take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers²³, in particular regarding:

- working conditions;
- transparent recruitment processes based on merit, and
- career development.

The beneficiaries must ensure that researchers and third parties involved in the action are aware of them.

32.2 Consequences of non-compliance

If a beneficiary breaches its obligations under this Article, the Commission may apply any of the measures described in Chapter 6.

ARTICLE 35 — CONFLICT OF INTERESTS

35.1 Obligation to avoid a conflict of interests

¹⁹ Commission Recommendation C(2008) 1329 of 10.4.2008 on the management of intellectual property in knowledge transfer activities and the Code of Practice for universities and other public research institutions attached to this recommendation

²³ Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).



The beneficiaries must take all measures to prevent any situation where the impartial and objective implementation of the action is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('conflict of interests').

They must formally notify to the Commission without delay any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

The Commission may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

35.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement or participation of the beneficiary may be terminated (see Article 50).

Such breaches may also lead to any of the other measures described in Chapter 6.

ARTICLE 36 — CONFIDENTIALITY

36.1 General obligation to maintain confidentiality

During implementation of the action and for four years after the period set out in Article 3, the parties must keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed ('**confidential information**').

If a beneficiary requests, the Commission may agree to keep such information confidential for an additional period beyond the initial four years.

If information has been identified as confidential only orally, it will be considered to be confidential only if this is confirmed in writing within 15 days of the oral disclosure.

Unless otherwise agreed between the parties, they may use confidential information only to implement the Agreement.

The beneficiaries may disclose confidential information to their personnel or third parties involved in the action only if they:

- (a) need to know to implement the Agreement and
- (b) are bound by an obligation of confidentiality.

This does not change the security obligations in Article 37, which still apply.

The Commission may disclose confidential information to its staff, other EU institutions and bodies. It may disclose confidential information to third parties, if:

- (a) this is necessary to implement the Agreement or safeguard the EU's financial interests and

²⁵ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" (OJ L 347, 20.12.2013 p.81).



- (b) the recipients of the information are bound by an obligation of confidentiality.

Under the conditions set out in Article 4 of the Rules for Participation Regulation No 1290/2013²⁵, the Commission must moreover make available information on the results to other EU institutions, bodies, offices or agencies as well as Member States or associated countries.

The confidentiality obligations no longer apply if:

- (a) the disclosing party agrees to release the other party;
- (b) the information was already known by the recipient or is given to him without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;
- (c) the recipient proves that the information was developed without the use of confidential information;
- (d) the information becomes generally and publicly available, without breaching any confidentiality obligation, or
- (e) the disclosure of the information is required by EU or national law.

36.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Communication activities by beneficiaries

38.1.1 Obligation to promote the action and its results

The beneficiaries must promote the action and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a major media impact, the beneficiaries must inform the Commission (see Article 52).

38.1.2 Information on EU funding — Obligation and right to use the EU emblem

Unless the Commission requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

- (a) display the EU emblem and
- (b) include the following text:

For communication activities: *“This project has received funding from the European Union’s Horizon 2020 research and innovation programme under grant agreement No 761708”*.



For infrastructure, equipment and major results: *“This [infrastructure][equipment][insert type of result] is part of a project that has received funding from the European Union’s Horizon 2020 research and innovation programme under grant agreement No 761708”.*

When displayed together with another logo, the EU emblem must have appropriate prominence.

For the purposes of their obligations under this Article, the beneficiaries may use the EU emblem without first obtaining approval from the Commission.

This does not, however, give them the right to exclusive use.

Moreover, they may not appropriate the EU emblem or any similar trademark or logo, either by registration or by any other means.

38.1.3 Disclaimer excluding Commission responsibility

Any communication activity related to the action must indicate that it reflects only the author's view and that the Commission is not responsible for any use that may be made of the information it contains.

38.2 Communication activities by the Commission

38.2.1 Right to use beneficiaries’ materials, documents or information

The Commission may use, for its communication and publicising activities, information relating to the action, documents notably summaries for publication and public deliverables as well as any other material, such as pictures or audio-visual material received from any beneficiary (including in electronic form).

This does not change the confidentiality obligations in Article 36 and the security obligations in Article 37, all of which still apply.

If the Commission’s use of these materials, documents or information would risk compromising legitimate interests, the beneficiary concerned may request the Commission not to use it (see Article 52).

The right to use a beneficiary’s materials, documents and information includes:

- (a) **use for its own purposes** (in particular, making them available to persons working for the Commission or any other EU institution, body, office or agency or body or institutions in EU Member States; and copying or reproducing them in whole or in part, in unlimited numbers);
- (b) **distribution to the public** (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes);
- (c) **editing or redrafting** for communication and publicising activities (including shortening, summarising, inserting other elements (such as meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation);
- (d) translation;



- (e) giving **access in response to individual requests** under Regulation No 1049/2001²⁷, without the right to reproduce or exploit;
- (f) **storage** in paper, electronic or other form;
- (g) **archiving**, in line with applicable document-management rules, and
- (h) the right to authorise **third parties** to act on its behalf or sub-license the modes of use set out in Points (b), (c), (d) and (f) to third parties if needed for the communication and publicising activities of the Commission.

If the right of use is subject to rights of a third party (including personnel of the beneficiary), the beneficiary must ensure that it complies with its obligations under this Agreement (in particular, by obtaining the necessary approval from the third parties concerned).

Where applicable (and if provided by the beneficiaries), the Commission will insert the following information:

“© – [year] – [name of the copyright owner]. All rights reserved. Licensed to the European Union (EU) under conditions.”

38.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

ARTICLE 46 — LIABILITY FOR DAMAGES

46.1 Liability of the Commission

The Commission cannot be held liable for any damage caused to the beneficiaries or to third parties as a consequence of implementing the Agreement, including for gross negligence.

The Commission cannot be held liable for any damage caused by any of the beneficiaries or third parties involved in the action, as a consequence of implementing the Agreement.

46.2 Liability of the beneficiaries

Except in case of force majeure (see Article 51), the beneficiaries must compensate the Commission for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement.

²⁷ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.



ANNEX 2 - JOINT IMPLEMENTATION PLAN

This SMARTEES2 Service Delivery Agreement for implementation of the Application Experiment by the Innovative Company, hereinafter referred to as the “JOINT IMPLEMENTATION PLAN (JIP)”, is entered into by and between the Parties mentioned in appearance on page 1 of the Service Delivery Agreement:

Whereas the Service Delivery Manager and the Innovative Company (OPTIONAL : and the other SMARTEES2 Beneficiaries) have agreed the main terms and conditions to implement the Application Experiment in the course of the SMARTEES2 Project by signing the Service Delivery Agreement n°

Now therefore it has been agreed as follows:

1. TERMS AND CONDITIONS FOR THE APPLICATION EXPERIMENT

The Innovative Company shall implement the Application Experiment in accordance with the following:

1.1. DESCRIPTION OF THE APPLICATION EXPERIMENT

Company name	
Team members (name/role/mail/phone number)	
Application Experiment Type	<input type="checkbox"/> Experimenting and testing end-product ideas <input type="checkbox"/> Support to Manufacturing / Upscaling
Application Experiment Title	
Acronym	
Cut-off N°	
Date of selection	
Starting date of the Application Experiment	
Duration of the Application Experiment	
<u>Main contact</u>	
Name & surname	
Department	
Tel:	
Email:	
<u>Other contact(s)</u>	
Name & surname	
Department	
Tel:	
Email:	



1.2. PARTIES INVOLVED IN THE APPLICATION EXPERIMENT

Service Delivery Manager (SmartEEs2 RTO)

SmartEEs2 Organisation	
Name & surname	
Department	
Tel:	
Email:	

Business Partner (SmartEEs2 Party of the CA)

SmartEEs2 Organisation	
Name & surname	
Department	
Tel:	
Email:	

Innovative Company

Third party Organisation	
<u>Main contact</u>	
Name & surname	
Department	
Tel:	
Email:	
<u>Other contact(s)</u>	
Name & surname	
Department	
Tel:	
Email:	

Technology supplier (if different from SDM: TP SME or TP RTO)

Third party Organisation	
<u>Main contact</u>	
Name & surname	
Department	
Tel:	
Email:	
<u>Other contact(s)</u>	
Name & surname	
Department	
Tel:	
Email:	

***Non Technology supplier (if different from Business Partner : TP SME)***

Third party Organisation	
<u>Main contact</u>	
Name & surname	
Department	
Tel:	
Email:	
<u>Other contact(s)</u>	
Name & surname	
Department	
Tel:	
Email:	



1.3 OBJECTIVES

Application Experiment objectives	
In case of “Experimenting and testing end-product ideas”	
End-product prototype description	
End-product prototype functionalities:	
In case of “Support to Manufacturing / Upscaling”	
Description of existing prototype	
Number of demonstrators	
Testing to be performed? (motivation)	

Product, components, technologies	
Product / components building blocks brought by the IC	
Flexible & Wearable Technologies brought by technical supplier	

1.4. IMPLEMENTATION PLAN OF THE APPLICATION EXPERIMENT

Tasks ##	Task description	Task leader	Partners roles	Estimated PM per partner	QMSE indicators (*)	Start/End (months)
Outline scope of work						
Milestones						
Deliverables						
TASK 1						
Task 1.1						
Deliverable						
Task 1.2						
Deliverable						
TASK 2						
TASK 3						

(*) Quality Management of SmartEEs2 Experience (QMSE) indicators to monitor experimentation at Technical, Business and Management levels. These will include measurable outcome, which will be assessed inside the Final Report.



1.5. PARTIES IPR

Service Delivery Manager 'SUPPLIER(S) Background (including limitations and restrictions)	<describe Background >
Innovative Company's (END-USER) Background (including limitations and restrictions)	<describe Background >
SUPPLIER(S) Background (including limitations and restrictions)	<describe Background >
Specific provisions for Joint Results	
Joint Results Option chosen by the Service Delivery Manager	Option 1 <input type="checkbox"/> <i>or</i> Option 2 <input type="checkbox"/>

1.6. FINANCIAL CONDITIONS (VOUCHER)

Financial support	Voucher corresponding to 70% funding of IC total expenses Max Voucher depending on Tier 1,2,3 scenarios
Schedule of payment	50% of Voucher at Service Delivery Agreement signature and 50% balance payment at completion of application experiment and validation of final report (deliverables validated)
Application Experiment rejection	The SDA is to be signed within 2 months from the notice day and time of the selection of the Innovative Company. If justified, additional 2 months can be given to conclude JIP definition and SDA signature. In case the SDA is not signed by all parties within 4 months (120 days) from the notice day and time of the selection of the Innovative Company, the Application Experiment will be simply rejected, without appeal, and without any Voucher payment.
Application Experiment extension	The duration of the Application Experiment is set inside the JIP, from 9 to 12 months. At the midterm of the project, a checkpoint will be made by the SDM to validate if the Application Experiment will be completed on time or if an extension is requested. One extension only, of a maximum of 3 months, will be given, if justified. Balance payment will be post-poned to the end of the extension. Passed the extension time, the Application Experiment will be terminated. In any case, with or without extension, with or without forced termination, the balance payment is conditional upon provision of the final report by the Innovative Company.
Penalties	Depends on each Service Delivery Manager organisation



1.7. ESTIMATED COSTS

The Voucher beneficiary(ies) will estimate costs, per category of costs, to be covered by the Voucher and its(their) in-kind contribution. Short description of costs will also be given.

The Voucher represents 70% of the total costs while the in-kind contribution of the company represents 30% of the total costs, in compliance with H2020 funding rules for For-Profit organisations.

Maximum Voucher request can be claimed only if in-kind contribution reaches the level set by H2020 funding rules.

One costs table to be completed for each third party beneficiary:

Company costs (Voucher and in-kind)	Estimated (JIP)		Short description
	EUR	%	
1. Personnel			
2. Consumables, materials, components			
3. Travel			
4. Subcontracting			
5. Other			
Total costs			

1.8. AFFILIATED ENTITIES

If applicable to be defined for each AE Partner:

1.9 ETHICS REQUIREMENTS

All application experiments must comply with the European policies regarding data protection and privacy and respects fundamental ethical issues particularly those outlined in the European Code of Conduct for Research Integrity.

Please answer the following questions (Y/N options). If the answer is Yes to any of the questions below, you will be requested to provide more information about it.

Does your proposed work involve:

1. Human embryos and fetuses
2. Humans
3. Human cells/tissues
4. Personal data
5. Animals
6. Third countries (complying with EU rules?)
7. Environment & Health and Safety
8. Dual use (research having the potential for military applications?)
9. Misuse (research having the potential for malevolent/criminal/terrorist abuse?)
10. Other ethics issues

For more information on ethical issues, please consult the document provided by the European Commission:

https://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/ethics/h2020_hi_ethics-self-assess_en.pdf



2. MISCELLANEOUS

2.1. This JIP, composed of the Service Delivery Agreement and its Annexes 1 to 3 included, constitutes the sole and complete understanding of the Parties with respect to its subject matter and supersedes all prior or contemporaneous communications between the Parties concerning such subject matter. This JIP will be governed and construed according to the choice of governing and constructive law set forth in the Service Delivery Agreement.

2.2. Save to the extent expressly modified in this JIP, all of the terms of the Service Delivery Agreement and Annexes 1-3 included shall apply to this JIP. Save to the extent expressly specified in this JIP, all capitalized terms used in this JIP which are defined in the Service Delivery Agreement shall have the meaning given in the JIP. In the event of a conflict between this JIP and the terms of the Service Delivery Agreement, the terms of the Service Delivery Agreement shall apply.

2.3. The terms of Article 10.1 of the Service Delivery Agreement will apply to the signing and enforceability of this Annex 2.



ANNEX 3 - FINAL REPORT TEMPLATE

The final report includes one prototype and associated publishable summary, an exploitation plan, a declaration of costs and a feedback survey.

Balance payment of the Voucher will be done once all these items are completed and validated by the Service Delivery Manager.

Prototype & publishable summary

This part is PUBLIC. Any information the company wants to keep confidential must be explicitly mentioned inside the JIP (Annex 2).

- High-resolution picture(s) of the prototype with caption(s)
- Video of the prototype
- Partners list
- Description of problem to be solved
 - o Application and performance indicators to be achieved
 - o Specific problem within the application to be addressed by SmartEEs2 technology
- Description of Solution
 - o Including the contribution of Flexible Electronics (and SmartEEs2) to achieve the performance in the Application Experiment
- Results:
 - o Physical description of prototype
 - o Functional description of prototype
 - o Functional assessment level: component level or end-product level
 - o Results of functional assessment
 - o Overall the performance of the AE prototype
 - o QMSE indicators: results versus targets set inside JIP

All information will be compiled and delivered by the company, as a readily publishable summary.

Exploitation plan

This table is CONFIDENTIAL, containing the following items,

- Market description
- Strategic positioning & unique value proposition
- Sustainability plan
- Value Chain description
- Public co-funding opportunities
- Private funding opportunities

All information will be compiled and delivered by the business partner.



Declaration of costs

This table is CONFIDENTIAL, declaring the company costs (Voucher and in-kind) at the end of the AE versus estimated costs presented inside the JIP.

In case of Option B chosen for the financial support terms and conditions, justification of the declared costs is not requested from the company.

One costs table to be completed for each third party beneficiary:

Company costs (Voucher and in-kind)	Estimated (JIP)		Declared		Short description
	EUR	%	EUR	%	
1. Personnel					
2. Consumables, materials, components					
3. Travel					
4. Subcontracting					
Total costs					

All information will be delivered by the company.

Ethics requirements

All application experiments must comply with the European policies regarding data protection and privacy and respects fundamental ethical issues particularly those outlined in the European Code of Conduct for Research Integrity.

Please answer the following questions (Y/N options). If the answer is Yes to any of the questions below, you will be requested to provide more information about it.

Did your work involve:

1. Human embryos and foetuses
2. Humans
3. Human cells/tissues
4. Personal data
5. Animals
6. Third countries (complying with EU rules?)
7. Environment & Health and Safety
8. Dual use (research having the potential for military applications?)
9. Misuse (research having the potential for malevolent/criminal/terrorist abuse?)
10. Other ethics issues

For more information on ethical issues, please consult the document provided by the European Commission: https://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/ethics/h2020_hi_ethics-self-assess_en.pdf

Feedback survey

This survey is CONFIDENTIAL and will be completed by the company.

The survey is available online to collect the feedback of companies on their experience through SmartEEs and will be used as lessons learnt & best practices recommendation to improve SmartEEs model:

<https://docs.google.com/forms/d/e/1FAIpQLSejWuVDvTC5LuwgWycjeVDvju7-EnrLsfXuPQ7NcTi4EKeg3Q/viewform>