

CNES CO-FINANCING OF A DOCTORAL RESEARCH GRANT

PRINCIPLE

Implementation of a doctoral research grant requires that the following be signed:

- an employment contract between the doctoral student and a supervisory entity from the host laboratory,
- and a co-financing agreement between CNES, a third-party co-financing partner (private or public) and the doctoral student's employer.

EMPLOYMENT CONTRACT

One of the supervisory entities from the host laboratory is the doctoral student's employer, and as such, must enter into an employment contract with him/her for the duration of the Thesis writing period (generally 36 months).

CO-FINANCING AGREEMENT

CNES' part in financing the thesis is subject to the signing of a co-financing agreement.

The doctoral student's employer must draft a co-financing agreement and submit it to the other parties as soon as possible.

The main provisions that need to appear in co-financing agreements are set out hereinafter.

1) CNES' FINANCIAL CONTRIBUTION

The fixed amount of CNES' financial contribution corresponds to 50% of the salary to be paid for the 3-year period.

This amount does not include potential assistance and support projects, for which specific contracts will be drawn up.

This amount will be paid by CNES according to a payment schedule to be determined, it being understood that:

The advances will be paid on submission of a progress report regarding the research/work undertaken for the university year in question.

The balance will be paid on receipt of:

- the thesis written submission,
- the reports by the thesis examiners,
- the list of publications,
- a summary sheet listing the research and work.

2) APPLICABLE PRINCIPLES WITH REGARD TO INTELLECTUAL PROPERTY

WITH REGARD TO PROPRIETARY KNOWLEDGE

Proprietary Knowledge refers to the knowledge, intellectual property rights and know-how obtained by each party prior to or independently of the thesis completion process. The list of Proprietary Knowledge necessary for completion of the thesis must be set out in an appendix to the co-financing agreement.

Ownership of Proprietary Knowledge

Proprietary Knowledge remains the respective property of the party providing it.

Parties' rights with regard to Proprietary Knowledge, for completion of the thesis

The parties grant each other, free of charge, the non-exclusive, non-transferable right to use their Proprietary Knowledge for the purposes of completing the thesis.

WITH REGARD TO THE RESULTS

The Results refer to all of the new knowledge, in any form, obtained within the framework of completing the thesis, whether patentable or not, and the associated intellectual property rights – with the exception of software, which is governed by specific provisions set out below.

Confidential Results: refers to Results designated as such in an appendix prior to the signing of the co-financing agreement and identified as being confidential. All or some of a Common Software Programme's source codes can be included in this appendix, if agreed between the Parties. This Appendix can be updated if agreed between the Parties.

Ownership of the Results

The Results are co-owned by the Parties.

Each party's ownership share will be defined on a case-by-case basis, taking into account the Parties' intellectual, human, material and financial contributions to the studies which gave rise to the Results.

Use of the results by the Parties for non-commercial purposes

Each Party will have the right, free of charge, to direct, non-commercial use of the Results, including the Confidential Results, for its Own Purposes. In the case of CNES, its Own Purposes refers to all programmatic, operational or institutional CNES missions as defined by its incorporating Act in Article L 331-2 of the Research Code, excluding any commercial use (see Appendix 1a), amended by Act No.2008-518 of 3 June 2008 - Art. 28.

Each Party will have the right, free of charge, to indirect, non-commercial use of the Results, excluding the Confidential Results, for its Own Purposes.

Accordingly, the Parties can freely sub-license a right to non-commercial use of all Results, except the Confidential Results, to a third party for their Own Purposes.

The Parties may not disclose the Confidential Results to a third party without prior authorisation from the other Parties in writing.

Use of the Results for commercial purposes

CNES is not set up to make commercial use of the Results. CNES therefore agrees to entrust commercial use to a third party, subject to the signing of an exploitation agreement defining the terms and conditions.

WITH REGARD TO SOFTWARE

The term Software refers to the set of process programmes and rules pertaining to the operation of a data processing system; it is understood that software can be in the form of a source code and/or object code, along with its associated documentation and user manual, and comprises, in general, all the elements, including but not limited to, any types of media, programs, manuscripts, lists and other documents, whether in written or any other form readable by man or machine.

Proprietary Software refers to Software owned by a Party independently of the thesis but required for its completion.

Derived Software refers to Software created within the framework of the thesis which is based on Proprietary Software, with or without the addition of new functions, and is exclusively dependent on the Proprietary Software.

Common Software refers to Software developed “from scratch” within the framework of the thesis or which brings a new function to Proprietary Software but is not exclusively dependent on the Proprietary Software as it can operate with other Software.

Contaminating Open Source Software refers to Software under a licensing agreement that makes it available to all with its source code, meaning that the license holder can use it, modify it and distribute it as a source code with no financial compensation for its author, and requiring the licence holder to distribute all derived products under the same terms and conditions as those set out in the said licensing agreement.

Ownership of Software

Proprietary Software remains the property of the party that owns it.

Derived Software remains the property of the Party that owns the Proprietary Software, regardless of who authored it. Thus, when the Party that has developed the Derived Software is not the owner of the Proprietary Software, said Party transfers the property rights with the full legal safeguards (rights of use, adaptation, modification, translation, representation, communication, etc.) to the Party that provided the Proprietary Software. The aforementioned rights are transferred for the entire legal period of protection applicable to the Derived Software concerned, for all domains, worldwide. This party must accordingly transfer the source codes for all Derived Software that is developed to the Party that owns the Proprietary Software.

The Common Software is co-owned by the parties, in shares proportional to their material, human, intellectual and financial contributions. The parties therefore provide each other with the source codes for all Common Software. The co-ownership of Common Software does not transfer the rights to Proprietary Software to the other Parties.

Use of Common Software

For non-commercial purposes

Each Party can, directly or indirectly, make free non-commercial use of the Common Software, free of charge, for its Own Purposes.

The Parties agree to ensure that the Parties' copyrights appear on all Common Software elements, and to ensure compliance by all third parties.

Each Party agrees to inform the others of any licence granted to third parties in order to fulfil its Own Purposes.

For commercial purposes

See Use of the Results for commercial purposes

Use of Derived Software

For non-commercial purposes

Granting of an object code licence

The Party that owns Derived Software grants the other Parties a non-exclusive license to use and reproduce this software, free of charge, for their Own Purposes, excluding any commercial use.

The aforementioned license is granted for the entire legal period of protection applicable to the Derived Software concerned, for all domains, worldwide.

Only an executable version of the Derived Software is delivered by the Owner Party.

Granting of a source code licence

If, for its own use, a Party requests delivery of a source code for checking, expert analysis or protection (safety of people and property) purposes relating to its missions, the other party agrees to provide this delivery, which is understood as simply granting the right of use.

Use of Proprietary Software

Each party grants the other parties, free of charge, the non-exclusive, non-transferable right to use its Proprietary Software when required to complete the thesis, for the duration of the thesis completion process.

Each Party agrees to disclose to the other Parties, prior to signing the co-financing agreement, a detailed list of the Contaminating Open Source Software that it wishes to use in completing the thesis. If approved by the other Parties, this list will be inserted into an appendix to the co-financing agreement. It is understood that the introduction of any non-designated Contaminating Open Source Software during the thesis completion process is subject to approval between the Parties.

WITH REGARD TO PATENTS

The doctoral student's employer agrees to inform the other Parties of any invention brought to its knowledge by the doctoral student. Inventions obtained within the framework of completing the thesis are co-owned by the Parties. The principles of this co-ownership are defined in Appendix 1 below.

3) SCIENTIFIC MANAGEMENT AND ACTIVITY REPORTS

The scientific and technical managers of each part need to be identified in each co-financing agreement and the Parties must be informed of any change.

For each thesis, the Parties meet as appropriate based on the doctoral student's progress in the thesis work, and at least once a year, counted from the co-financing agreement signature date.

The Parties agree to have the doctoral student write a report specifying the progress made in the work undertaken for the thesis, and to have this report validated by the scientific and

technical managers of each part; the doctoral student will submit this report to the Parties before each annual meeting.

When the co-financing agreement reaches its term, the doctoral student is obligated to present each Party with an original copy of his/her thesis.

4) CONFIDENTIALITY, PUBLICATIONS, COMMUNICATIONS

Confidentiality

The co-financing agreement, including its appendices, is entered into *intuitu personae*, and all of its provisions are considered confidential information.

Each Party undertakes to keep strictly confidential, not publish, not reproduce, not disclose to third parties for any reason whatsoever, and not use for purposes other than the purpose of performing the work concerned by the thesis (and any follow-up or resulting work), without the prior written consent of the concerned Party, any part of the information of any kind whatsoever belonging to one of the Parties, that was communicated to it within the framework of the work as confidential by affixing a seal or statement, or of which it gained knowledge in the course of the thesis though the information was not communicated to it within the framework of the latter. Confidential information communicated orally must be confirmed within 30 days following disclosure in a confidential letter.

Classifying information or data as confidential cannot limit the Parties' intellectual property rights to this information or data.

This confidentiality obligation takes effect as soon as the co-financing agreement becomes effective and continues for five years after its term or termination for any reason whatsoever. This obligation does not apply to information for which the receiving Party can provide evidence:

- that it was in the public domain before its disclosure, or after this disclosure, but there was no breach of this Agreement,
- that it was known to the receiving Party before its disclosure, providing that this Party proves it with written documents,
- that it was developed independently and in good faith by the receiving Party before its disclosure, within the terms of this Agreement,
- that it was designated as non-confidential by the issuing Party,
- that it was communicated to the receiving Party by a third party holding the right to disclose this information,
- that it was published without violating this Agreement.

Each Party will take all required measures with its personnel, and if applicable with its subcontractors and their personnel, to protect the confidential nature of said information.

Each party undertakes in particular to restrict the circulation of this information solely to the members of its personnel who will need it within the framework of the active and direct role they are liable to play in the work concerned by this thesis, informing them of the confidential nature of the information.

Publication - Communication

All publication or communication of information relative to the thesis by any of the Parties must comply with the rules of confidentiality and be subject, during the term of this co-financing agreement and for six months following its expiration, to the written agreement of the other Parties, who will make their decision known within a maximum of two months following the request. Beyond this time and without a reply, they will be considered to have agreed.

Consequently, all publication or communication plans must be submitted to the prior opinion of the other Parties who may remove or modify certain aspects the disclosure of which could bear prejudice to the industrial and commercial use, under proper conditions, of the Results, patents and Common Software. Such removals or modifications shall not impair the scientific value of the publication.

Furthermore, each Party may delay publication or communication for a maximum period of 18 months as of the request, in particular if information contained in the publication or communication will be protected by industrial property rights.

In addition, all publication or communication shall mention each Party's support in completing the thesis, notably each Party's participation.

However, these stipulations may not obstruct:

- either the obligation of each person participating in the thesis to produce an activity report for the organisation they work for, providing that this communication does not represent a disclosure in the sense of the laws on industrial property,
- or the defence of the Researcher's thesis. The content of this thesis will be communicated to the Parties at the latest two months before the date of the defence. The Parties may request the removal of certain parts and/or request a defence session in private. The other Parties will send their written reply within one month from the date the thesis was received. The confidential nature of the thesis will be drawn to the attention of each jury member. On completion of the thesis defence session, a report with the confidential information expurgated, approved by the Parties, will be given to the University qualified to issue the thesis in exchange for the non-expurgated version.

5) SPECIFIC PROVISIONS

The doctoral student's employer will inform the co-financing partners as quickly as possible of any event leading to suspension or termination of the doctoral student's employment contract.

The doctoral student's employer agrees to ensure that the provisions of the employment contract signed with the doctoral student comply with the co-financing agreement.

The doctoral student's employer agrees to authorise him/her to take part in open-house days organised at the DLA and DCT for doctoral students in their 1st year of thesis writing and JC2 days (CNES young researcher days) for doctoral students in their 2nd year of thesis writing. These open-house days are held once a year. CNES agrees to inform the employer at least two (2) months prior to the dates of these events to allow the employer to make the necessary arrangements. CNES will bear all expenses pertaining to these events (transportation, accommodation).

APPENDIX 1

RULES APPLICABLE TO THE MANAGEMENT OF CO-OWNED PATENTS

A - GENERAL PRINCIPLES

This appendix applies to all Patent applications, Patent filing abroad, and their maintenance.

Unless renounced by one of the Parties as provided below, Patents are filed, in France and other countries, under the joint names of the Parties.

Patent management and tracking, from the filing date of the first Patent application to their entry into the public domain, are entrusted to a Co-ownership Managing Organisation. The Co-ownership Managing Organisation is designated by mutual agreement between the Parties.

In this respect, the Co-ownership Managing Organisation alone is empowered to act on behalf of the co-ownership for all actions mentioned below, in accordance with the information and notice procedures provided below. It assesses the need to obtain assistance from an agent to accomplish these actions.

The Parties undertake:

- to communicate to each other all technical or administrative documents required to file and obtain Patents;
- that the names of the inventors be mentioned in accordance with the legal provisions in force in patent applications;
- that their personnel, listed as inventors, provide all signatures and accomplish all formalities required to file, obtain, maintain and defend the Patents, and in particular that they sign the assignment of rights relative to the US procedure.

Each party undertakes to conclude, in the shortest possible time, all agreements that could still be outstanding, with all individuals or legal entities involved in any manner whatsoever, either directly or indirectly, in the thesis completion process and the obtaining of the Inventions.

The Doctoral Student undertakes to observe the same provisions beyond the term of this co-financing agreement.

The Parties undertake to draw up co-ownership rules prior to any filing.

B - EXPENSES

All of the expenses, outlays and fees incurred by the co-owners pertaining to filing for the patent, the issuance procedure and keeping the patent active, and those incurred to file the patent abroad, if applicable, to the countries of its choice, will be paid directly to the representative selected by the Managing Organisation by each of the co-owner Parties in proportion to their share in co-ownership of the Results (unless renounced by a Party) if it is a joint decision by all co-owner Parties, or financed entirely by the Party or Parties concerned if the decision was taken only by it or them.

It is understood that the Parties, as co-owners, will ensure profit-sharing with their respective inventors, in accordance with legislation in force.

C – PROCEDURES FOR PATENT FILING, MAINTENANCE AND PATENT FILING ABROAD

Patent filing and maintenance

The Managing Organisation assesses the timeliness of filing Patents and informs its partners in writing within four months after being informed of the Invention. It communicates the text of the Patent applications for their opinion.

If the Managing Organisation or its partners do not wish to protect the Invention with a Patent, they inform each other mutually in writing within four months after having been informed of the Invention so that the concerned Parties can file a Patent in their sole name and for their sole benefit.

If the Managing Organisation decides to not protect an Invention with a Patent, the remaining Parties will appoint another Managing Organisation.

If the Managing Organisation or its partners do not wish to maintain a Patent, they inform each other mutually as soon as possible so that the Parties wishing to maintain the Patent can perform the procedures in their sole name and for their sole benefit. In this event, the renouncing Party assigns its share of co-ownership to its partners without receiving compensation.

Patent Filing Abroad

The Managing Organisation communicates to its partners its intention to file for the Patent(s) abroad as soon as possible.

If the partners do not wish to participate in filing abroad as decided by the Managing Organisation, they inform it in writing as soon as possible so that it can proceed in its sole name and for its sole benefit.

If the Managing Organisation renounces filing for the Patents abroad, it informs the other Parties, which can then perform the necessary procedures in their sole name and for their sole benefit.

Parties renouncing Patent filing abroad assign their rights over the corresponding Patent applications to the other Parties exclusively, without receiving compensation.

D - ASSIGNMENT

At any time, and according to the terms defined below, each Party can assign its share of co-ownership of the Patents or Patent applications.

The Party wishing to assign its share of co-ownership to a third party notifies the other co-owners of its intention by registered letter with acknowledgment of receipt, specifying in particular the name of the third-party assignee and the financial terms of the assignment.

Within the four months following this notification, the co-owners have a pre-emptive right at financial terms at least equal to those granted to the third party. The co-owners state their intention to the assignor in writing. On expiration of the above-mentioned period, the assignor enjoys by right the authorisation to assign if the co-owners did not inform it of their wish to use their pre-emptive right.

In the assignment deed, the assignor makes known to the assignee, who accepts, the rights and obligations resulting from this Agreement, and any agreements relative to royalties in case of commercial use. The assignee is subrogated in the rights and obligations of the assignor. A copy of the assignment deed is communicated to the other initial co-owners. A copy of this Agreement and of the co-ownership rules will be communicated to the assignee.

E - LEGAL PROCEEDINGS

The co-owners inform each other mutually as soon as possible:

- of any infringement of rights by third parties of which they are aware,
- of any infringement claim or action against them,
- of any other legal proceedings relative to Patent ownership.

They consult each other with regard to the various actions to be carried out and provide each other with all information at their disposal which may be of use in assessing the nature and magnitude of the claim. Moreover, they exchange all documents, powers and signatures necessary for the proceedings described below.

If the Parties decide by joint agreement that proceedings should be brought against a third party, they determine whether or not such proceedings should be conducted jointly. In this event, the Managing Organisation takes all measures to initiate all proceedings and put an end to this infringement or violation, in its name and in the name of the other Parties that specifically empower it for this purpose.

The Managing Organisation initiates the proceedings at its sole expense, risk and benefit. The other Parties offer it assistance and may decide to resume the proceedings on their own behalf if their partner withdraws.

If one of the Parties does not wish to initiate proceedings, the other Parties may continue at their sole initiative and in their sole name. Legal expenses are borne by them and compensation, including any damages, is theirs in full.

Each of the Parties can oppose these proceedings based on their legitimate interest.