



Proposals for Improving Partner & Regular Project Activities

The following three proposals are recommended for Governing Board consideration. The first two proposals require GB decision on approval:

- **Approve** the concept of joint ISTC-STCU Partner Projects, making use of the existing administrative procedures for joint ISTC-STCU Regular Projects, and instruct the STCU to work with the ISTC Secretariat on amending the current Administrative Agreement for Joint Projects.
- **Approve** a decrease in the Party review period for STCU Partner Project proposals from the current 45 days to 30 days.

The third proposal is a recommendation for the STCU Secretariat to encourage STCU Project Managers to incorporate non-disclosure agreements between themselves and their Foreign Collaborators in order to better protect their research during interactions with collaborators on STCU projects (or, indeed, in any collaborative research they undertake with other scientists). As this third proposal does not entail any change or modification to STCU policies or procedures, the Secretariat wishes to seek Governing Board of support for this proposal but not necessarily for GB decision.

The following explains the three Secretariat proposals in more detail.

Proposal for Joint ISTC-STCU Partner Projects

Background: A request from some Partners who work in both ISTC and STCU raised the possibility of combining Partner Project work between institutes that cross the ISTC and STCU memberships. This Partner question comes particularly from the aerospace technology field, where Russian aviation designers and Ukrainian material experts could provide the aerospace Partner with a strong combination of R&D talent.

With the commonality between the ISTC and STCU Partners Programs, a relatively simple expansion of current ISTC/STCU project cooperation would make “joint Partner Projects” feasible. There are several advantages for this adoption of the joint ISTC/STCU Partner Project concept. The increased flexibility will encourage more Partner interest in the ISTC and STCU which could lead to more Partner Project funding for both Centers. Joint Partner Projects (along with joint Regular Projects) will encourage more cross-regional science interaction and partnership between ISTC and STCU Beneficiary Parties and their scientists and institutes. ISTC and STCU operational cooperation also would take a step further, and the concept would take advantage of the common Partner procedures that already exist between the two Centers. Finally, joint Partner activity would entail no changes in procedures or responsibilities of Governing Parties as the concept could be implemented via modifications to the existing ISTC/STCU joint Regular Projects procedure (and the streamlined Partner processes in both Centers would likely be a more efficient and faster process than with the Regular Projects process).

Some of the issues that need to be considered lie primarily between the ISTC and STCU Secretariats. Close contact will be required between the ISTC and STCU Partner Program staff, because of timing and schedule issues with issuing and managing the Partner Project processes, such as assigning project numbers, notifications of each Center, developing of separate but connected Partner Project Agreements, etc. Also, close ISTC/STCU cooperation with Partner and institutes required to ensure agreed-to common IPR approach in the Project Agreements and complete understanding of



the roles, responsibilities, financial arrangements, and transactions (particularly material transfers across ISTC and STCU Beneficiary Party borders) is needed.

Proposal: That STCU Governing Board approve the concept of “joint ISTC-STCU Partner Projects” and instruct the STCU Secretariat to work with the ISTC Secretariat on appropriate amendments to their current Administrative Agreement on Joint Projects so as to include additional steps specific to such joint Partner Projects. These amendments would include the following:

1. The Partner Organization must be an approved Partner in good standing in both ISTC and STCU.
2. Submission of the joint Partner Project proposal would follow the same procedures outlined in the current ISTC-STCU Administrative Agreement regarding proposal submission formats, HGC approval procedures, internal processing procedures within the ISTC and STCU, separate but connected Partner Project Agreements (each covering only the portion of the Project involving that particular Science Center), etc.
3. Joint Partner Projects would be submitted for Governing Board approval to both ISTC and STCU Governing Parties using the current ISTC and STCU Partner Project approval procedures, as well as the same applicable procedures in the ISTC-STCU Administrative Agreement. To avoid redundant reviews among the common ISTC/STCU Partners, the amendment to the Administrative Agreement would design a synchronized process for sending the Joint Partner Project proposal only once to the common ISTC/STCU Parties.
4. The Joint Partner Project would be considered fully approved and ready for operational commencement once **both** the ISTC and STCU portions had successfully completed the Party review periods of both Centers. The two Centers will communicate frequently to ensure close synchronization of the two review periods and operational commencement dates of both the ISTC and STCU portions of the joint Partner Project work plan.
5. Partner Projects would have separate Project Agreements covering the ISTC and STCU responsibilities, and would have indications that the project is connected to a fellow Center project. Partner fees would be applied according to the amount of Project funding that passes through the individual Center.
6. Notifications, roles, and responsibilities between the ISTC and STCU (such as designation of a Lead Science Center, if necessary) would follow the same terms outlined in current ISTC-STCU Administrative Agreement.

Proposal to Reduce Partner Project Review Period to 30 days

Background: As ISTC and STCU implement their current near-term strategies, improving the attractiveness of ISTC and STCU Partner Programs to private-sector/non-governmental organizations is an important consideration. Today, ISTC and STCU do not move at the “speed of business”, and should not move at such a pace. But steps that would streamline and accelerate the bureaucratic processing time between Partner Project submission and Partner Project commencement would have a positive impact on ISTC/STCU ability to attract commercial and private sector project funding.

The history of the Partner Project review/approval system demonstrates that Governing Parties rely on “negative concurrence” after the 45-day expiration rather than provide early, pro-active, and explicit approval. It appears that the all the Parties use a Partner Projects review process that is, more or less, standard and automatic. In that light, one



might assume that the difference between 45 days and a slightly shorter period of time would not have an impact on the Governing Parties oversight on Partner Project activity. Moreover, both ISTC and STCU already a shorter review period (30 days) to consider applications for non-government Partner status, and again, the Governing Parties seem to prefer to use “negative concurrence” for approving these Partner applications.

The STCU Secretariat has no direct knowledge of the processes undertaken by all its Governing Parties when reviewing a Partner Project proposal. Therefore, the Secretariat can only propose shortening the review period from 45- to 30 days without knowing what impact this has on the Parties review process. However, given that the Parties need only to determine the appropriateness of a proposed Partner Project with Governing Party policies and STCU mandate, the Secretariats hopes that such a “policy check” could be accomplished within 30 days.

Proposal: That the Governing Parties approve a modification to the Partner Project Review and Approval procedure, reducing the review period from 45 days to 30 days and retaining the current “negative concurrence” policy.

Additional Non-Disclosure Agreements for Regular Project Foreign Collaborators

Background: While the STCU policies outline the role and responsibilities for Foreign Collaborators, these are merely definitions and guidelines with no binding force on the Collaborators. Also, Foreign Collaborators are not bound by the terms within an STCU Project Agreement, as Foreign Collaborators are not signatories to these Agreements and there are no Agreement terms that involve the Foreign Collaborator.

Although exceptionally rare, there have been instances where Foreign Collaborators have made claims or demands on Project Managers for research results or material developed under STCU Regular Projects, where such demands exceed the spirit and intention of the Foreign Collaborator role. Further, as STCU and its Parties move toward recruiting industry experts as Collaborators and encourage more STCU project research that target commercial market interests, the need for Project Managers to better protect their research information during Foreign Collaborator interactions becomes increasingly important. Finally, many STCU projects involve using the expertise and facilities of Foreign Collaborators to test and evaluate material samples developed under the STCU Project, and the protection of such transferred material should be impressed on the Collaborator as well as the participating STCU scientists.

As part of the experience STCU brings to Project participants when interacting with their foreign peers and interested customers, STCU tries to stress the importance of protecting their research information, inventions and prototypes, methodologies, research results, etc. In the international science and technology world, it is common practice to engage in non-disclosure arrangements to protect both project-related information and project-developed materials

Proposal: That STCU Secretariat encourage Project Managers (PMs) to engage their Foreign Collaborators in two types of non-disclosure agreements (NDAs)—one for information and one for project-related materials—so that PMs and Foreign Collaborators have a full understanding and binding agreement to protect and properly handle both research results and any materials that is transferred between the Project and the Foreign Collaborators.

The Secretariat shall make two examples (attached) available to the PMs, and encourage them to engage their Foreign Collaborators in these, or similar, non-disclosure agreements as part of the Project Proposal or Project Agreement preparation phase. These NDAs shall not be part of the STCU Project Agreement, but shall be stand-alone agreements involving only the Foreign Collaborator and project team or institutes.



MODEL CONFIDENTIALITY & MUTUAL NONDISCLOSURE AGREEMENT (C&NDA) BETWEEN RECIPIENT INSTITUTE & PROJECT COLLABORATOR

This C&NDA is effective this ____ day of _____, 200_, by and between <CIS Recipient Institute >, located at <CIS Recipient Institute Address> and <Collaborator>, located at <Address>.

Whereas, <CIS Institute> and <Collaborator> (hereafter individually referred to as the "Signatory," or collectively as the "Signatories") wish to exchange certain business-confidential or proprietary information relating to <description of technology> ("business-confidential Information") in order to facilitate their collaboration in STCU Project No. _____. This C&NDA will govern the conditions of mutual disclosure of business-confidential Information by the Signatories. The business-confidential Information to be exchanged under this C&NDA includes, but is not limited to, the contents of the documents listed in the attachment to this C&NDA .

Further, the Signatories represent that for all purposes necessary for the legal binding effect of this C&NDA, they have the authority to legally obligate not only themselves as individuals but also the legal entities whom they represent.

The Signatories specifically agree:

- (1) Information may be identified as "business-confidential Information" under this C&NDA if the Signatory having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, if the information is not generally known or publicly available from other sources, and if the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.
- (2) To perform all terms of this C&NDA and to maintain the business-confidential Information in confidence, giving it the same degree of care, but no less than a reasonable degree of care, as the Signatories exercise with their own business-confidential information to prevent its unauthorized disclosure;
- (3) To exchange and use the business-confidential Information solely for the purpose of <describe the purpose(s) for which the business-confidential Information is to be used under this C&NDA >;
- (4) That the Signatory receiving business-confidential Information (receiving Signatory), without the prior written consent of the Signatory disclosing business-confidential Information (disclosing Signatory), will not disclose any portion of the business-confidential Information to others except to their employees, agents, consultants, subcontractors, or Government personnel having a need to know in order to accomplish the sole purpose stated above, and who are bound by a like obligation of confidentiality under this C&NDA;
- (5) That neither Signatory will have any obligation or assume any liability with respect to any portion of the business-confidential Information that:
 - (a) The receiving Signatory can demonstrate by written record was previously known to it;
 - (b) That is, or becomes, available to the public through no fault of the Signatories;
 - (c) That is lawfully obtained by the receiving Signatory from a third party and is not subject to an obligation of confidentiality owed to the third party; or
 - (d) That is independently developed by or for the receiving Signatory independent of any disclosure hereunder.
- (6) That business-confidential Information disclosed by the disclosing Signatory will be in writing and clearly marked by the disclosing Signatory as "business-confidential Information." If such business-confidential Information is initially disclosed orally, it will be identified as business-confidential Information at the time of disclosure and the disclosing Signatory will, within thirty (30) days thereafter, confirm in writing the oral disclosure, referencing the date and type of business-confidential Information disclosed.



(7) That all rights and title to the business-confidential Information disclosed pursuant to this Agreement will remain the property of the disclosing Signatory unless otherwise agreed to in writing by the Signatories.

(8) Specifically, as regards foreground intellectual property rights (IPR) that may be created under the above-identified project and which the Collaborator may learn about in the course of the project, such foreground IPR shall be deemed business-confidential or proprietary information and <Collaborator> promises to neither appropriate nor to make any use of it without the prior written authorization of both the <CIS Recipient Institute> and any licensee under the STCU's Statute and the above-identified STCU project agreement.

The Signatories further agree that the furnishing of business-confidential Information will not constitute any grant or license to the other for any legal rights now or hereinafter held by either Signatory.

This C&NDA will remain in effect and shall apply to business-confidential Information disclosed by the Signatories from the effective date first written above until the end of the above-identified STCU project agreement. At the end of the STCU project agreement, the receiving Signatory will return or destroy the business-confidential Information. If the business-confidential Information is destroyed, a certificate of destruction will be furnished to the disclosing Signatory. The secrecy and non-use obligations set forth above will remain in effect for an additional three (3) years after the end of the STCU project agreement.

All modifications of this C&NDA must be in writing and signed by the each Signatory.

<CIS Recipient Institute >

<Collaborator>

By: _____
(signature)

By: _____
(signature)

Name: _____
(please print)

Name: _____
(please print)

Title: _____

Title: _____

Date: _____

Date: _____

A descriptive but not exclusive list of documents to which this C&NDA applies (see point [2], supra):

- (a) <AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA>;
- (b) <BBBBBBBBBBBBBBBBBBBBBBBBBBBB>;
- (c) <CCCCCCCCCCCCCCCCCCCCCCCC>;
- (d) <DDDDDDDDDDDDDDDDDDDDDD>;
- (e) <EEEEEEEEEEEEEEEEEEEEEEEE>;
- (f) <FFFFFFFFFFFFFFFFFFFFFFFF>.



MODEL MATERIALS TRANSFER AGREEMENT

1. The Parties to this Agreement are <Name>, (hereinafter "RECIPIENT"), located at <Address>, and the <CIS Institute >, (hereinafter "PROVIDER"), located at <CIS Institute Address>. This work is being done under <Partner or Regular> Project No. ----- with the Science and Technology Center of Ukraine (STCU) located at 21 Kamenyariv Street, Kiev, Ukraine 03138.
2. The "Material" that is covered by this Agreement includes the following samples: <List here the specific materials that they will be sending>, received by RECIPIENT from PROVIDER. The RECIPIENT is hereby notified that neither this MTA nor the transfer of Material from the PROVIDER to the RECIPIENT grants to the RECIPIENT any right or license to any intellectual property, including but not limited to patents and know-how, owned or controlled by PROVIDER, and PROVIDER retains all rights to such intellectual property. PROVIDER shall be free, in its sole discretion, to distribute the Material to others and to use it for its own purposes.
3. RECIPIENT shall not distribute or release the Material to others, and shall ensure that no one will be allowed to take or send this Material to any other location without prior written permission from PROVIDER.
4. RECIPIENT acknowledges and agrees that Material transferred from PROVIDER to RECIPIENT under this Agreement shall be used by RECIPIENT only for testing and evaluation purposes.
5. RECIPIENT shall make no effort, either directly or indirectly, to analyze or otherwise in any way attempt to determine the chemical composition or physical structure of the Material without obtaining the written permission of PROVIDER.
6. RECIPIENT shall have no rights in the Material (as defined in Paragraph 2) other than as provided in this Agreement. Upon the termination of this Agreement, RECIPIENT will return or otherwise dispose of all unused Material as directed by PROVIDER.
7. **THE MATERIAL IS PROVIDED WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. PROVIDER MAKES NO REPRESENTATION OR WARRANTY THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT. ALL USES OF THE MATERIAL COVERED BY THIS AGREEMENT ARE AT THE RISK OF RECIPIENT AND PROVIDER IS NOT RESPONSIBLE FOR ANY PERSONAL INJURY OR PROPERTY DAMAGE OF ANY KIND RESULTING DIRECTLY OR INDIRECTLY FROM THE USE OF THIS MATERIAL BY RECIPIENT.**
8. RECIPIENT agrees to waive against PROVIDER all claims and damages arising from the use, handling or storage of the Material by RECIPIENT and its employees.
10. RECIPIENT will use the Material in compliance with all applicable laws and government regulations.
11. This Agreement is not assignable, by operation of law or otherwise, without the prior written consent of PROVIDER.
12. This Agreement shall terminate one (1) year from the date of the last signature.



<CIS Institute >

By: _____

Title: _____

Date: _____

<Name>

By: _____

Title: _____

Date: _____
