

INTERNATIONAL ENERGY AGENCY

**IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH
AND DEVELOPMENT ON ENERGY
CONSERVATION THROUGH ENERGY STORAGE**

(As amended on 21 May 2010)

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TABLE OF CONTENTS

PREAMBLE	3
Article 1 – DEFINITIONS	4
Article 2 - OBJECTIVES	6
Article 3 – IDENTIFICATION AND INITIATION OF ANNEXES	6
Article 4 – Annual PROGRAMME OF WORK	7
Article 5 – THE EXECUTIVE COMMITTEE	7
Article 6 – THE SECRETARY	11
Article 7 - THE OPERATING AGENTS	12
Article 8 - FINANCE	14
Article 9 – INFORMATION AND INTELLECTUAL PROPERTY	18
Article 10 – LEGISLATIVE PROVISIONS	18
Article 11 – ADMISSION, PARTICIPATION AND WITHDRAWAL OF PARTICIPANTS.....	19
Article 12 – FINAL PROVISIONS	21

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(As amended on 21 May 2010)

The Contracting Parties

CONSIDERING that the Contracting Parties, being either governments or international organizations or parties designated by their respective governments pursuant to Article III of the Guiding Principles for Co-operation in the Field of Energy Research and Development adopted by the Governing Board of the International Energy Agency (the "Agency") on 28 July 1975, wish to take part in the establishment and operation of a Programme of Research and Development on Energy Conservation through Energy Storage (hereinafter the "Programme") as provided in this Agreement;

CONSIDERING that the Contracting Parties which are governments and the governments of the other Contracting Parties (referred to collectively as the "Governments") participate in the Agency and have agreed in Article 41 of the Agreement on an International Energy Program (the "I.E.P. Agreement") to undertake national programmes in the areas set out in Article 42 of the I.E.P. Agreement, including research and development on energy conservation in which field the Programme will be carried out;

CONSIDERING that in the Governing Board of the Agency on 22 September 1978 the Governments approved the Programme as a special activity under Article 65 of the I.E.P. Agreement;

CONSIDERING that the Agency has recognized the establishment of the Programme as an important component of international co-operation in the field of energy conservation;

CONSIDERING that the Governing Board of the Agency on 3 April 2003 annulled the Guiding Principles for Co-operation in the Field of Energy Research and Development and approved the IEA Framework for International Energy Technology Co-operation;

HAVE AGREED as follows:

Article 1

DEFINITIONS

In this Agreement, except where the contrary intention is expressed, the following definitions are used:

- 1.1 **Agency or IEA:** the International Energy Agency.
- 1.2 **Annex:** an addendum, if any, to this Agreement and an integral part of this Agreement, which sets out the manner, including the financial undertakings, and other means of support, by which the activities of the particular Annex are implemented by the Participants.
- 1.3 **Annual Programme of Work:** the activities of the Programme of Work for the Implementing Agreement and each Annex for the period from 1 January to 31 December each year, as adopted by the Executive Committee, acting by unanimity.
- 1.4 **Annual Report:** shall mean a report covering the activities of the Annual Programme of Work.
- 1.5 **Budget:** the budget for the Implementing Agreement and each Annex for the period from 1 January to 31 December each year, as adopted by the Executive Committee, acting by unanimity.
- 1.6 **CERT:** the Committee on Energy Research and Technology of the IEA.
- 1.7 **Common Fund:** any fund established by the Executive Committee or by an Annex into which the financial contributions of the Participants are placed.
- 1.8 **Contracting Party:** a Contracting Party, as described in the IEA Framework, which has signed or acceded to this Agreement and has not withdrawn from this Agreement.
- 1.9 **End of Term Report:** a report prepared for the IEA Working Party's endorsement and CERT approval at the end of the initial term and each subsequent term of this Agreement and which covers the Implementing Agreement's past achievements and future plans.
- 1.10 **Executive Committee:** the committee established pursuant to Article 5 of this Agreement.
- 1.11 **Governing Board:** the Governing Board of the IEA.
- 1.12 **IEA Framework:** the IEA Framework for International Energy Technology Co-operation adopted by the Governing Board on 3 April 2003. The IEA Framework is attached as Exhibit A to this Agreement and is an integral part of the Agreement.
- 1.13 **I.E.P. Agreement:** the Agreement on an International Energy Program dated 18 November 1974, as amended to 7 August 1992.

- 1.14 **IEA Implementing Agreements:** the multilateral research and development collaborations established by two or more IEA Member countries, subject to approval of the CERT and of the Governing Board.
- 1.15 **IEA Member countries:** the member countries of the IEA.
- 1.16 **IEA Secretariat:** the Secretariat of the IEA.
- 1.17 **IEA Working Party:** the bodies of the CERT that periodically evaluate and review IEA Implementing Agreements and advise the CERT and other IEA bodies on specific research and development topics that are in the interests of IEA Member countries.
- 1.18 **Implementing Agreement:** the Implementing Agreement for a Programme of Research and Development on Energy Conservation through Energy Storage.
- 1.19 **International Organisation:** an intergovernmental organisation established by treaty whose members are comprised of sovereign states and/or other intergovernmental organisations.
- 1.20 **OECD:** the Organisation for Economic Co-operation and Development.
- 1.21 **Operating Agent:** the person or legal entity designated by the Participants in an Annex and confirmed by the Executive Committee to manage an Annex and ensure the operation of the Annex within the scope of the Programme of Work. References in this Agreement to an Operating Agent shall apply to all designated Operating Agents.
- 1.22 **Office of the Legal Counsel of the Agency:** the legal office of the IEA.
- 1.23 **Participant:** a signatory to this Agreement, whether a Contracting Party or a Sponsor.
- 1.24 **Programme of Work:** the overall plan of activities determined by the Executive Committee to be implemented under this Agreement.
- 1.25 **Secretary:** appointed pursuant to Article 6 of this Agreement to provide the services described in that Article.
- 1.26 **Special Working Group:** established by the Executive Committee pursuant to Article 12.7 at least 6 (six) months before the definitive expiry or announced termination of this Agreement.
- 1.27 **Sponsor:** any Sponsor, as described in the IEA Framework, which has signed or acceded to this Agreement and has not withdrawn from the Agreement.
- 1.28 **Task or Tasks:** a particular collaborative research and development activity within the Programme of Work in which some, but not all, Participants may choose to participate. The Task, and the means of participation in the Task, is described in a corresponding Annex to the Implementing Agreement.

Article 2

OBJECTIVES

- 2.1 *Scope of Activity.* The Programme of Work to be carried out by the Participants under this Agreement shall consist of co-operative research, development, demonstrations and exchanges of information regarding energy conservation through energy storage.
- 2.2 *Method of Implementation.* The Participants shall implement the Programme of Work by participating in one or more Annexes, each of which will be open to participation by two or more Participants as provided in Article 3 of this Agreement.
- 2.3 *Annex Co-ordination and Co-operation.* The Participants shall co-operate in co-ordinating the work of the various Annexes and shall endeavour, on the basis of an appropriate sharing of burdens and benefits, to encourage co-operation among Participants engaged in the various Annexes with the objective of advancing the research and development activities of all Participants in the field of energy conservation through energy storage.

Article 3

IDENTIFICATION AND INITIATION OF ANNEXES

- 3.1 *Identification.* At the time of signing this Agreement, each Participant shall confirm its intention to participate in at least one Annex by giving the Executive Director of the Agency a Notice of Participation. The Task in each Annex shall be carried out in accordance with the procedures described in of this Agreement, unless otherwise specifically provided in the applicable Annex.
- 3.2 *Initiation of Additional Annexes* Two or more Participants may initiate additional Annexes according to the following procedure:
 - (a) The Participants shall submit to the Executive Committee a draft Annex, similar in form to the Annexes attached to this Agreement, containing a description of the scope of work and conditions of the Annex;
 - (b) The Executive Committee, acting by majority, shall adopt such Annexes pursuant to Article 5.5(b); the approved draft Annex shall become part of this Agreement.
 - (c) The participation in the Annex by a Participant shall become effective as of the date of a Notice of Participation in that Annex sent by the Participant to the Executive Director of the Agency;
 - (4) In carrying out the various Tasks under the Annexes, Participants and Operating Agents shall co-ordinate their activities in order to avoid duplication

of activities.

- (c) *Application of Annexes.* Each Annex shall be binding only upon the Participants that have confirmed their participation in that particular Annex and upon the Operating Agent for that Annex, and shall not affect the rights or obligations of other Participants.

Article 4

ANNUAL PROGRAMME OF WORK

- 4.1 Participants shall carry out the activities under this Agreement, as may be specified in Annexes to this Agreement, in accordance with the Annual Programme of Work.
- 4.2 *Programme Activities:* The Annual Programme of Work shall be implemented through co-ordinated activities, co-operatively determined and supported by all Participants within the context of this Agreement. The Annual Programme of Work shall be co-ordinated, as appropriate, with the activities being pursued by the IEA Secretariat and other IEA Implementing Agreements.
- 4.3 The Annual Programme of Work shall include projects that support the Implementing Agreement's core objectives. The implementation of these projects is intended to be funded from annual contributions by Participants.
- 4.4 All activities shall be planned in their entirety by all Participants to ensure effectiveness, consistency and coherence of these activities with the core objectives.

Article 5

THE EXECUTIVE COMMITTEE

- 5.1 *Supervisory Control.* Control of the Implementing Agreement shall be vested in the Executive Committee constituted under this Article.
- 5.2 *Membership.* The Executive Committee shall consist of one representative designated by and representing each Participant; each Participant shall also designate an alternate representative who shall represent the Participant if the representative is unable to do so. Each Participant shall inform the Executive Director of the Agency and the Operating Agent in writing of all designations under this Article.
- 5.3 *Responsibilities.* The Executive Committee shall:
- (a) adopt for each year, acting by unanimity, the Annual Programme of Work and the Budget of this Implementing Agreement and, if foreseen, for each Annex, together with an indicative Annual Programme of Work and Budget for the following two years; the Executive Committee may, as required, make adjustments to the Programme of Work and Budget;

- (b) make such rules and regulations as may be required for the sound management of this Agreement and the Annexes, including financial rules as provided in Article 8 of this Agreement;
- (c) carry out the other functions conferred upon it by this Agreement; and
- (d) consider any matters submitted to it by any of the Operating Agents or by any Participant.

5.4 *Procedures.* The Executive Committee shall carry out its responsibilities in accordance with the following procedures:

- (a) The Executive Committee shall each year elect a Chair and one or more Vice-Chairs. Only representatives of Contracting Parties shall be eligible to hold the position of Chair or Vice-Chair of the Executive Committee;
- (b) The Executive Committee may establish such subsidiary bodies and rules of procedure as are required for its proper functioning. A representative of the Agency and a representative of each Operating Agent (in its capacity as such) shall be invited to and may attend meetings of the Executive Committee and its subsidiary bodies in an advisory capacity;
- (c) The Executive Committee shall meet in regular session twice a year; a special meeting shall be convened upon the request of any Participant which can demonstrate such a need;
- (d) Meetings of the Executive Committee shall be held at such time and in such location as may be designated by the Executive Committee;
- (e) At least 28 (twenty-eight) days before each meeting of the Executive Committee, notice of the time, place and purpose of the meeting shall be given to each Participant and to any other persons or entities entitled to attend the meeting; notice need not be given to any person or entity otherwise entitled thereto if notice is waived before or after the meeting; and
- (f) The quorum for the transaction of business in meetings of the Executive Committee shall be one-half of the Participants plus one (less any resulting fraction) provided that any action relating to a particular Annex shall require the same quorum of members or alternate members designated by the Participants in that Annex.

5.5 *Voting:*

- (a) When the Executive Committee adopts a decision or recommendation concerning a particular Annex which the Executive Committee has previously approved, the Executive Committee shall act:
 - (i) for all decisions for which unanimity is required by this Agreement:

- by the unanimous affirmative vote of all those Executive Committee representatives, or alternate representatives in the absence of the representative, who are representing the Participants in the relevant Annex and who are present and entitled to vote;
- (ii) notwithstanding paragraph (a)(i) above, for all decisions involving the Annex's Common Fund or the Annex's Budget, by the unanimous affirmative vote, in person or by proxy, of all Executive Committee representatives, or alternate representative in the absence of the representative, who are representing the Participants in that Annex and who are entitled to vote; and
 - (iii) when no express voting provision is made in this Agreement: by majority vote of all those Executive Committee representatives, or alternate representatives in the absence of the representative, who are representing the Participants in the relevant Annex and who are present and are entitled to vote.
- (b) In all other cases when the Executive Committee adopts a decision or recommendation, the Executive Committee shall act, subject always to paragraph (c) below:
- (i) for all decisions for which unanimity is required by this Agreement: by the unanimous affirmative vote of all Executive Committee representatives, or alternate representative in the absence of the representative, who are present and are entitled to vote;
 - (ii) notwithstanding paragraph (b)(i) above, for all decisions involving the Implementing Agreement's Common Fund or the Budget, by the unanimous affirmative vote, in person or by proxy, of all Executive Committee representatives, or alternate representative in the absence of the representative, entitled to vote; and
 - (iii) when no express voting provision is made in this Agreement: then by the affirmative vote of a majority of those Executive Committee representatives, or alternate representative in the absence of a representative, who are present and are entitled to vote.
- (c) Should an Executive Committee representative entitled to vote, or his/her designated alternate, be unable to attend an Executive Committee meeting, such Executive Committee representative may grant a proxy to another Executive Committee representative, or may communicate to the Chair of the Executive Committee by mail, fax, e-mail or other electronic transmission in writing, no later than 5 (five) days prior to the date of the meeting, his/her vote on any decision or recommendation which shall be subject to a vote and on which he/she is entitled to vote.
- (d) The failure of any Executive Committee representative, or alternate representative in the absence of the representative, to vote at a meeting, in

person or by proxy, or the failure of any representative, or alternate representative in the absence of the representative, to respond to a vote required by written procedure pursuant to paragraph (e) below, shall be considered an abstention and such abstention shall not block an otherwise unanimous or majority vote.

- (e) If a government has designated more than one Contracting Party to this Agreement, the representatives or alternate representatives designated by those Contracting Parties together shall have the right to cast only one vote under this Article.
- (f) The decisions and recommendations referred to in paragraphs (a) and (b) above may, upon the reasonable request of any Executive Committee representative, be made by written procedure by mail, e mail, fax or other means of electronic transmission without the necessity for calling a meeting. In that case, the Executive Committee Chair shall ensure that all Executive Committee representatives (1) receive the necessary documentation in relation to each decision or recommendation and (2) be given twenty one (21) days to vote from the date of delivery of the written procedure documentation, or any other period as may be determined by the Executive Committee, acting by unanimity. As stated in paragraph (d) above, lack of response by an Executive Committee representative will be deemed to be an abstention and will not be counted as a positive vote. The Chair shall ensure that all representatives are informed of each decision or recommendation made pursuant to this sub paragraph. The decisions made by written procedure shall be recorded in the minutes of the following Executive Committee meeting.
- (g) *Reports.* The Executive Committee shall provide the Agency with the reports and information indicated in Article 6 of the IEA Framework.

Article 6

THE SECRETARY

- 6.1 *Designation; Scope of Authority.* The Chair will nominate a Secretary and the Executive Committee by a majority vote will confirm the Secretary to:
- (a) make and distribute agendas, minutes and other documents of Executive Committee meetings;
 - (b) prepare decisions and recommendations in accordance with Article 5.5 ;

- (c) assist the Executive Committee and the Chair in carrying out their responsibilities and in undertaking such other activities as may be required by the Executive Committee under this Agreement; and
- (d) assist the Executive Committee in the overall co-ordination of the work in the different Annexes.

The Secretary shall carry out its functions under the supervision of the Executive Committee. Representatives of the Secretary may attend meetings of the Executive Committee and its subsidiary bodies in an advisory capacity with no voting rights.

- 6.2 *Acceptance of Functions:* The Secretary shall accept its specific functions and responsibilities under this Agreement by giving a Notice of Acceptance to the Executive Committee and to the IEA Executive Director.
- 6.3 *Reimbursement of Costs.* The Executive Committee may provide that expenses and costs incurred by the Secretary under this Article be reimbursed to the Secretary in accordance with Article 8.7.
- 6.4 *Contracting.* The Secretary may, with the prior approval of the Chair and the majority of the Executive Committee and in accordance with the Programme of Work and Budget, enter into contracts for necessary and appropriate support or consultancy services.
- 6.5 *Replacement.* Should the Executive Committee wish to replace the Secretary with another entity, the Executive Committee may, acting by unanimity, take such action. The replacement Secretary shall accept its functions and responsibilities following the procedure as set out in Article 6.2.
- 6.6 *Resignation.* The Secretary shall have the right to resign at any time by giving six months' written notice to that effect to the Executive Committee.
- 6.7 *Information and Reports.* The Secretary shall furnish the Executive Committee with such information concerning its work as the Executive Committee may request.

Article 7

THE OPERATING AGENTS

- 7.1 *Designation.* Participants in each Annex shall designate an Operating Agent for the particular Annex. The Executive Committee shall confirm this designation by a majority vote. References in this Agreement to the Operating Agent shall apply to each Operating Agent in respect of the Annex for which it is responsible.
- 7.2 *Acceptance of Functions:* Each Operating Agent shall accept its specific duties and responsibilities under this Agreement and the relevant Annex by providing a Notice of Acceptance to the Executive Committee and to the Executive Director of the Agency.
- 7.3 *Role of the Operating Agent.* The Operating Agent shall be responsible to the

Executive Committee for the operation of the Annex in accordance with this Agreement, the Programme of Work, the applicable Annex, and the decisions of the Executive Committee. Subject to the provisions of this Agreement and the applicable Annex, the Operating Agent shall:

- (a) enact all legal acts required to carry out each Annex on behalf of the Participants in the Annex, unless the Executive Committee decides otherwise, acting by unanimity;
- (b) hold, for the benefit of the Participants in the Annex, the legal title to all property rights which may accrue to or be acquired for the Annex, unless the Executive Committee decides otherwise, acting by unanimity.

The Operating Agent shall facilitate the activities to be carried out under the Annex in accordance with this Agreement and the laws of the country of the Operating Agent.

- 7.4 *Staff.* It shall be the responsibility of the Operating Agent to retain such staff as may be required to carry out its designated Annex in accordance with this Agreement and the rules determined by the Executive Committee. The Operating Agent may also, as required, utilise the services of personnel employed by other Annex Participants (or organizations or other entities designated by Annex Participants) and made available to the Operating Agent by secondment or otherwise.
- 7.5 *Remuneration of Staff.* Staff members retained or used by the Operating Agent shall be remunerated by their respective employers and shall, except as provided in this Article, be subject to their employers' conditions of service. The relevant Annex Participants shall be entitled to claim the appropriate cost of such remuneration or to receive an appropriate credit for such cost as part of the Budget of the Annex, in accordance with Article 8.6(f) of this Agreement.
- 7.6 *Reimbursement of Costs.* The Executive Committee may provide that expenses and costs properly incurred by an Operating Agent in acting pursuant to this Agreement shall be reimbursed to the Operating Agent from funds made available by the Annex Participants pursuant to Article 8 of this Agreement.
- 7.7 *Replacement.* The Executive Committee may, acting by unanimity, replace an Operating Agent. The replacement Operating Agent shall accept its functions and responsibilities following the procedure set out in Article 7.2.
- 7.8 *Resignation.* An Operating Agent shall have the right to resign at any time, by giving 6 (six) months' written notice to that effect to the Executive Committee. Should a replacement be designated and confirmed before the expiry of such period of notice, the current Operating Agent shall cease its functions at an earlier date, as may be determined by the Chair of the Executive Committee. Should a replacement not be appointed by the expiry of such period of notice, the current Operating Agent shall continue to perform all its functions, with the same rights and obligations, for an additional maximum period of 6 (six) months.
- 7.9 *Accounting.* An Operating Agent shall provide the Executive Committee with an

annual accounting of any monies and other assets which it may have collected or acquired for the Annex in the course of carrying out its responsibilities as Operating Agent. Should the Operating Agent be replaced or resign, it shall provide the Executive Committee, no later than 30 (thirty) days after it ceases its function, with an account of any moneys and other assets it may have acquired or collected for the Annex for the current year through to its end date

- 7.10 *Transfer of Rights.* In the event that another Operating Agent is appointed under Articles 7.7 or 7.8, the Operating Agent shall transfer to such replacement Operating Agent any property rights and any other assets which it may hold on behalf of the Participants in the Annex.
- 7.11 *Information and Reports.* Each Operating Agent shall furnish to the Executive Committee such information concerning the Annex as the Executive Committee may request and shall each year submit, not later than 2 (two) months after the end of the financial year, a report on the status of the activities carried out under the Annex.
- 7.12 *Liability of Operating Agent:* The Operating Agent shall use all reasonable skill and care in carrying out its duties under this Agreement and the relevant Annex and shall be responsible for ensuring that the Task described under the Annex is conducted in accordance with all applicable laws and regulations. Except as otherwise provided in this Article, the cost of all damage to property, and all expenses associated with claims, actions and other costs arising from work undertaken with the Common Fund of an Annex shall be charged to the Budget of that Annex; such costs and expenses arising from other work undertaken for an Annex shall be charged to the Budget of that Annex if the Annex so provides or the Executive Committee, acting by unanimity, so decides.
- 7.13 *Insurance:* The Operating Agent shall obtain all necessary relevant available insurance, and shall carry such insurance as the Executive Committee may direct. The cost of obtaining and maintaining insurance shall be charged to the Budget of the relevant Annex.
- 7.14 *Indemnification of Participants:* The Operating Agent shall be liable, in its capacity as such, to indemnify Participants against the cost of any damage to property and against all legal liabilities, actions, claims, costs and expenses connected with any such damage to the extent that they:
- (a) result from the failure of the Operating Agent to maintain any insurance it is required to maintain under Article 7.13; or
 - (b) result from the gross negligence or wilful misconduct of the Operating Agent in carrying out its duties under this Agreement.

Article 8

FINANCE

- 8.1 *Individual Financial Obligations.* Unless otherwise agreed by the Participants by unanimity, each Participant shall bear its own costs in carrying out the activities under this Agreement and any Annexes, including the costs of formulating or transmitting reports and of reimbursing its employees for travel and other *per diem* expenses, unless provision is made for such costs to be reimbursed from the Common Fund as provided in Article 8.7.
- 8.2 *Common Financial Obligations.* Participants wishing to share the costs of implementing particular activities under any Annexes shall agree to do so in the appropriate Annex. The apportionment of contributions to such costs (whether in the form of cash, services rendered, in-kind, intellectual property or the supply of materials) and the use of such contributions shall be governed by the regulations and decisions made pursuant to this Article by the Executive Committee.
- 8.3 *Financial Rules, Expenditure.* The Executive Committee, acting by unanimity, may make such regulations as are required for the sound financial management of the activities under this Agreement including, where necessary:
- (a) establishment of budgetary and procurement procedures to be used by the Operating Agent in making payments from a Common Fund which may be maintained by Participants for the account of an Annex or in making contracts on behalf of the Participants; and
 - (b) establishment of minimum levels of expenditure for which Executive Committee approval shall be required, including expenditure involving payment of monies to the Operating Agent for other than routine salary and administrative expenses previously approved by the Executive Committee in the budget process.
- 8.4 *Crediting of Income to Budget.* Any income which accrues from the operation of an Annex shall be credited to the Budget of that Annex.
- 8.5 *Accounting.* The system of accounts employed by the Operating Agent shall be in accordance with accounting principles generally accepted in the country of the Operating Agent and consistently applied.
- 8.6 *Programme of Work and Budget, Keeping of Accounts.* Should Participants agree to maintain a Common Fund for the payment of obligations under a Programme of Work and Budget of an Annex, the following provisions shall be applicable unless the Executive Committee, acting by unanimity, decides otherwise:
- (a) the financial year of the Annex shall be designated by the Operating Agent and confirmed by a majority vote of the Executive Committee;
 - (b) the Operating Agent shall each year prepare and submit to the Executive Committee for approval a draft Annual Programme of Work and Budget for the Annex, together with an indicative programme of work and budget for the following two years, not later than 3 (three) months before the beginning of each financial year;

- (c) the Operating Agent shall maintain complete, separate financial records which shall clearly account for all funds and property coming into the custody or possession of the Operating Agent in connection with the Annex;
- (d) not later than 3 (three) months after the close of each financial year the Operating Agent shall submit to auditors selected by the Executive Committee for audit the annual accounts maintained for the Annex. A Participant designated by the Executive Committee shall do the same for the Common Fund established pursuant to Article 8.7(a)(i). Upon completion of the annual audit, the Operating Agent and the Executive Committee's designee shall present the accounts together with the auditors' report to the Executive Committee for approval;
- (e) all books of account and records maintained by the Operating Agent shall be preserved for at least 3 (three) years from the date of termination of the Annex; and
- (f) where provided in the relevant Annex, a Participant supplying services rendered, in-kind, intellectual property or materials to the Annex shall be entitled to a credit, determined by the Executive Committee, acting by unanimity, against its contribution (or to compensation, if the value of such services rendered, in-kind, intellectual property or materials exceeds the amount of the Participant's contribution); such credits for services of staff shall be calculated on an agreed scale approved by the Executive Committee and include all payroll-related costs.

8.7 *Contribution to the Common Funds*

- (a) *Secretary:*
 - (i) *Common Fund.* A Common Fund shall be established by the Executive Committee for the purpose of funding the Secretary.
 - (ii) *Common Funding Obligations.* Each Participant shall make an annual contribution to the Common Fund, which shall cover the period from 1 January to 31 December of each year. The maximum annual budget for the Secretary shall be set each year by the Executive Committee, acting by unanimity, based on a detailed proposal from the Secretary. The Executive Committee, acting by unanimity, shall apportion the amount of the maximum annual budget among the Participants to ascertain each Participant's annual contribution.
 - (iii) *Payment Terms.* The Secretary will send to each Participant an invoice for payment of its Common Fund contribution each year. The payment shall be made within 60 (sixty) days from the date of the invoice.
 - (iv) *Changes in Number of Participants of the Implementing Agreement.* When new Participants join the Implementing Agreement, the

Executive Committee, acting by unanimity, shall decide the specific scale of contributions for the new Participants and the shares of contributions for the existing Participants shall be adjusted accordingly. For countries that join mid-year, the Executive Committee, acting by unanimity, shall decide whether to increase the Secretary budget for that year by the amount of the new contributions, or to reduce the contributions of the other Participants for that year so as to maintain a constant Secretary budget.

- (v) *Report.* Not later than 3 (three) months after the close of each financial year, the Secretary shall provide the Executive Committee with a detailed accounting of expenditures for the previous financial year.
 - (vi) *In-Kind Contributions in Lieu of Funds.* Each year, the Executive Committee, acting by unanimity, may approve, on a case-by-case basis, the contribution of staff work for specific tasks, or the assumption of specific costs (e.g., for printing), in lieu of part or all of a Participant's annual contribution to the Common Fund for that year. A Participant proposing to substitute staff work or the assumption of specific costs for part or all of its annual contribution for a specific financial year shall provide the Executive Committee with a detailed description of the proposed staff work or costs, which must be in addition to any task-shared contribution that would normally be made under an Annex. Proposals for such substitutions must be made each financial year; a Participant wishing to make such substitutions for more than one financial year must, each financial year, submit a separate proposal to the Executive Committee for that financial year.
- (b) *Annexes:* Should Participants agree to establish a Common Fund under the Annual Programme of Work and Budget for an Annex, any financial contributions due from Participants in an Annex shall be paid to the Operating Agent in the currency of the country of the Operating Agent at such times and upon such other conditions as the Executive Committee, acting by unanimity, shall determine, provided however that:
- (i) contributions received by the Operating Agent shall be used solely in accordance with the Programme of Work and Budget for the Annex; and
 - (ii) the Operating Agent shall be under no obligation to carry out any work under the Annex until contributions amounting to at least fifty per cent (in cash terms) of the total due at any one time have been received.
- 8.8 *Ancillary Services.* Ancillary services may, as agreed between the Executive Committee and the Operating Agent, be provided by that Operating Agent for the operation of an Annex and the costs of such services, including overheads connected therewith, may be met from budgeted funds of that Annex.
- 8.9 *Taxes.* The Operating Agent shall pay all taxes and similar impositions (other than

taxes on income) imposed by national or local governments and incurred by it in connection with this Agreement or an Annex. The Operating Agent shall, however, endeavour to obtain all possible exemptions from such taxes.

8.10 *Audit.* Each Annex Participant shall have the right, at its sole cost, to audit the accounts of any work under an Annex in which it participates and for which a Common Fund is maintained, on the following terms:

- (a) the Operating Agent shall provide the other Participants with an opportunity to participate in such audits on a cost-shared basis;
- (b) accounts and records relating to activities of the Operating Agent other than those conducted for the purpose of the Annex shall be excluded from such audit, but if the Participant concerned requires verification of charges to the Budget representing services rendered to the Annex by the Operating Agent, it may at its own cost request and obtain an audit certificate in this respect from the auditors of the Operating Agent;
- (c) not more than one such audit shall be required in any financial year; and
- (d) any such audit shall be carried out by not more than three representatives of the Annex Participants.

8.11 *Winding-Up Fund:* the Executive Committee, following the proposal of the Operating Agent, may establish levels of contribution towards the creation of a winding-up fund.

Article 9

INFORMATION AND INTELLECTUAL PROPERTY

9.1 *Information and Intellectual Property.* The Executive Committee shall establish, by unanimous vote, the necessary provisions and procedure relating to the use of information and intellectual property, including the right to publish information and the copyright of material other than the material referred to in Article 9.2.

9.2 *OECD/IEA Copyrights.* The Participants understand and agree that the OECD/IEA shall retain the copyright to all deliverables, materials or joint material or joint publications published or to be published by the IEA or jointly by the IEA and one or more Participants. Should the Participants use any such deliverables, materials or joint material or joint publications they shall seek the prior written approval of the IEA Secretariat and, if the IEA gives such approval, the Participants shall give full acknowledgement to the OECD/IEA as being the source of the material, with a copyright notice in the following form: “© OECD/IEA, [year of publication]”.

9.3 *OECD/IEA Intellectual Property.* The Participants understand and agree that the name, acronym and emblem of the IEA has been notified to the World Intellectual Property Organisation (WIPO) Secretariat according to Article 6 of the Paris

Convention for the Protection of Industrial Property, as amended on 28 September 1979. None of the Participants, the Secretary, the Operating Agents or their agents, representatives and assigns may use the IEA name, acronym or logo without the IEA's prior written approval.

Article 10

LEGISLATIVE PROVISIONS

10.1 *Accomplishment of Formalities.* Each Participant shall request the appropriate authorities of its country (or its Member States in the case of an International Organisation) to use their best endeavours, subject to applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to conduct the activities under this Agreement.

10.2 *Applicable Laws.* In carrying out this Agreement, the Participants shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitution, laws and regulations applicable to the respective Participants, including, but not limited to, laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to governmental officials.

10.3 *Applicable Rules.* Notwithstanding Article 7 of the IEA Framework, the IEA Framework shall apply, and be an integral Part of, this Agreement from 10 December 2004. Where there is any inconsistency between the terms of this Agreement and the IEA Framework, the Framework shall prevail. A copy of the IEA Framework is attached as Exhibit A to this Agreement.

10.4 *Settlement of Disputes.* Any dispute among the Participants concerning the interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement within 30 (thirty) days of written notification of the dispute from one Participant to the other Participants shall be referred to a sole arbitrator to be chosen by the Participants in dispute. Should the Participants fail to agree upon the selection of the arbitrator, the President of the Permanent Court of Arbitration in the Hague, the Netherlands, shall, at the request of any of the Participants concerned, exercise that responsibility. The arbitrator shall decide any such dispute by reference to the terms of this Agreement and any applicable laws and regulations, and his decision on a question of fact shall be final and binding. An Operating Agent which is not a Participant shall be regarded as a Participant for the purpose of this Article, where the Operating Agent is a party to the dispute.

Article 11

ADMISSION, PARTICIPATION AND WITHDRAWAL OF PARTICIPANTS

11.1 *Admission of New Contracting Parties:*

- (a) Upon the invitation of the Executive Committee, acting by unanimous vote, admission to this Implementing Agreement shall be open to Contracting Parties, as described in Article 3 of the IEA Framework.
- (b) The Executive Committee shall establish the terms and conditions for the admission, participation and withdrawal of the Contracting Parties in this Implementing Agreement, including their rights and obligations, provided that no Contracting Party will be accorded greater rights than those permitted to Contracting Parties in the IEA Framework.

11.2 *Admission of Sponsors:*

- (a) The Executive Committee, acting by unanimous vote, may invite Sponsors, as described in Article 3 of the IEA Framework, to participate in this Implementing Agreement.
- (b) Participation of Sponsors in this Implementing Agreement requires prior approval by the CERT.
- (c) The Executive Committee shall establish the terms and conditions for the admission, participation and withdrawal of Sponsors in this Implementing Agreement, including their rights and obligations, provided that no Sponsor will be accorded greater rights than those permitted to Sponsors in the IEA Framework.
- (d) Notwithstanding paragraph (c), no Sponsors shall have greater rights or benefits than Contracting Parties and no Sponsor shall be designated Chair or Vice-chair. In the event that the Executive Committee amends this Agreement so as to impose additional obligations on Contracting Parties, the Executive Committee shall decide, acting by unanimity, whether, or to what extent, such additional obligations shall be imposed upon Sponsors. In such cases the Executive Committee will notify the Sponsor of its decision and the Sponsor shall notify the Executive Committee of its acceptance of the amendments to its obligations within 3 (three) months or such other period as may be fixed by the Executive Committee, failing which it shall be deemed to have withdrawn from participation in this Agreement.

11.3 *Admission of New Participants in Annexes.* Any Participant in this Agreement may, with the agreement of the Participants in an Annex, acting by unanimity, become a Participant in that Annex. Such participation shall become effective as of the date of a Notice of Participation in the appropriate Annex sent by the Participant to the Executive Director of the Agency.

11.4 *Contributions.* The Executive Committee may require, as a condition to admission to participation, that the new Participant shall contribute (in the form of cash, services rendered, in-kind, intellectual property or the supply of materials) an appropriate proportion of the prior budget expenditure of any Annex in which it participates.

11.5 *Replacement of Contracting Parties.* With the agreement of the Executive Committee, acting by unanimity, and upon the request of a government, a Contracting Party

designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in Article 11.1 and in accordance with the procedure provided in this Agreement.

11.6 *Withdrawal:*

- (a) Any Participant may withdraw from this Agreement or from any Annex:
 - (i) by giving 12 (twelve) months' written Notice of Withdrawal to the Executive Director of the Agency, such notice to be given not less than one year after the date of this Agreement; or
 - (ii) at any time prior to such 12 (twelve) months' notice, with the unanimous approval of all the other representatives on the Executive Committee.
- (b) The withdrawal of a Participant under this paragraph shall not affect the rights and obligations of the other Participants; except that, where the other Participants have contributed to a Common Fund, their proportionate shares in the budget shall be adjusted to take account of such withdrawal.
- (c) A Participant that has given a Notice of Withdrawal, or that has requested the Executive Committee to approve its withdrawal at an earlier date, shall maintain all its rights and obligations, including of financial nature, until the date of effect of the withdrawal.

11.7 *Changes of Status of Participant.* A Participant, other than a government or an International Organisation, shall immediately notify the Executive Committee and the IEA Secretariat of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. The Executive Committee shall determine whether any such change in status of a Participant significantly affects the interests of the other Participants; if the Executive Committee so determines, then, unless the Executive Committee, acting by unanimity, otherwise agrees:

- (a) that Participant shall be deemed to have withdrawn from the Agreement under Article 11.6 on a date to be fixed by the Executive Committee; and
- (b) where the Participant is a Contracting Party, the Executive Committee shall invite the government which designated that Contracting Party to designate, within a period of 3 (three) months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party; if approved by the Executive Committee, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement and gives the Executive Director of the Agency a Notice of Participation in one or more Annexes.

11.8 *Failure to Fulfil Contractual Obligations.* Should any Participant fail to fulfil its obligations under this Agreement, the Executive Committee shall give that Participant

written notice, specifying the failure and invoking this Article. If, 60 (sixty) days after receipt of such notice, the Participant remains in default of its obligations, the Executive Committee (not including the representative of the Participant in default), acting by unanimity, may deem the Participant to have withdrawn from this Agreement and shall so notify the Participant in writing.

Article 12

FINAL PROVISIONS

- 12.1 *Term of Agreement.* This Agreement shall enter into force upon the agreement of at least two Contracting Parties from IEA Member countries and shall remain in force for an initial period of 3 (three) years.
- 12.2 *Extension.* This Agreement may be extended for such additional periods as may be determined by the Executive Committee upon unanimous vote, subject to approval by the CERT. Any single extension period shall not be greater than 5 (five) years unless the CERT otherwise decides, based on exceptional circumstances and sufficient justification.
- 12.3 *Legal Relationship of Participants.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Participants.
- 12.4 *Termination.* Notwithstanding Articles 12.1 and 12.2, the Executive Committee may, upon unanimous vote, terminate this Agreement at any time.
- 12.5 *Liquidation of Assets.* Upon termination of this Agreement, or any Annex to this Agreement, the Executive Committee, acting by unanimity, shall arrange for the liquidation of the assets of the Annex or Annexes. Intellectual property held by an Operating Agent for the benefit of Annex Participants shall for this purpose be regarded as assets of the respective Annex. In the event of such liquidation, the Executive Committee shall, so far as practicable, distribute the assets of the Annex, or the proceeds from the Annex, to the Annex Participants in proportion to their respective contributions from the date of first participation of each Annex Participant.
- 12.6 *Liquidation of the Common Fund of the Implementing Agreement.* Upon expiry or termination of this Agreement, any unused monies in a Common Fund and/or any outstanding expenditures shall be allocated to the Participants in proportion to their respective contributions since the beginning of the current term.
- 12.7 *Expiry or Termination of the Agreement:* The Executive Committee may, at least 6 (six) months before the definitive expiry or announced termination of this Agreement, establish a Special Working Group composed of representatives of all the Participants to propose appropriate measures with respect to material, intellectual property rights and information generated under this Agreement and the Annexes.
- 12.8 *Amendment.* This Agreement may be amended at any time by the Executive Committee, acting by unanimity, and any Annex to this Agreement may be amended

at any time by the Executive Committee representatives who are representing Participants in that Annex, acting by unanimity. All amendments to this Agreement or to any Annexes shall be integrated into a new electronic version and distributed according to Article 12.9.

- 12.9 *Deposit.* The original of this Agreement, and all amended versions, shall be deposited with the Office of the Legal Counsel of the Agency acting on behalf of the Executive Director of the Agency and a certified copy of this Agreement shall be furnished to each Participant and each Operating Agent. An electronic version of this Agreement and the Annexes, and all amended versions, shall be furnished to the Office of the Legal Counsel of the Agency acting on behalf of the Executive Director of the Agency.

Done in Paris, September 22nd 1978
As amended by the Executive Committee December 10th 2004
and again on 21 May 2010

THE LEGAL ADVISOR:

EXHIBIT A

IEA FRAMEWORK FOR INTERNATIONAL ENERGY TECHNOLOGY CO-OPERATION

I. General Principles

Article 1

Mandate

- 1.1 In fulfilment of Chapter VII of the Agreement on an International Energy Program and in light of the Shared Goals of the IEA, the IEA operates Implementing Agreements to enable IEA Member countries to carry out programmes and projects on energy technology research, development and deployment.
- 1.2 An Implementing Agreement is a contractual relationship established by at least two IEA Member countries, and approved by the Governing Board, for the purpose set out in Article 1.1.
- 1.3 Participants in an Implementing Agreement shall contribute as fully as possible to the achievement of its objectives and shall endeavour to secure, through public and private support, the necessary scientific, technical and financial resources for the programmes and projects carried out under such an Implementing Agreement.
- 1.4 Each Implementing Agreement shall have an Executive Committee composed of representatives of all participants.

Article 2

Nature of Implementing Agreements

- 2.1 The activities of an Implementing Agreement may include, *inter alia*:
 - (a) co-ordination and planning of specific energy technology research, development and deployment studies, works or experiments carried out at a national or international level, with subsequent exchange, joint evaluation and pooling of the scientific and technical results acquired through such activities;
 - (b) participation in the operation of special research or pilot facilities and equipment provided by a participant, or the joint design, construction and operation of such facilities and equipment;
 - (c) exchange of information on (i) national programmes and policies, (ii) scientific and technological developments and (iii) energy legislation, regulations and practices;

- (d) exchanges of scientists, technicians or other experts;
 - (e) joint development of energy related technologies; and
 - (f) any other energy technology related activity.
- 2.2 Participation in an Implementing Agreement shall be based on equitable sharing of obligations, contributions, rights and benefits. Participants in an Implementing Agreement shall undertake to make constructive contributions, whether technical, financial or otherwise, as may be agreed by the Executive Committee.
- 2.3 Some or all of the participants in an Implementing Agreement may choose to execute specific projects and/or programmes through Annexes to the Implementing Agreement.

II. Rules Applicable to IEA Implementing Agreements

Article 3

Participation, Admission and Withdrawal

- 3.1 An Implementing Agreement can be established by two or more IEA Member countries subject to approval of the Committee on Energy Research and Technology (CERT) and of the Governing Board. There are two possible categories of participants in Implementing Agreements: Contracting Parties and Sponsors.
- 3.2 Contracting Parties may be
- (a) the governments of both OECD member or OECD non-member countries;
 - (b) the European Communities;
 - (c) international organisations in which the governments of OECD member countries and/or OECD non-member countries participate; and
 - (d) any national agency, public organisation, private corporation or other entity designated by the government of an OECD member country or an OECD non-member country, or by the European Communities.
- 3.2.1 Participation in any Implementing Agreement for OECD non-member countries or for international organisations requires prior approval by the CERT. However, should the CERT consider a first time application by an OECD non-member country or an international organisation to be sensitive, it may refer the decision to the Governing Board as it deems appropriate.

3.2.2 Prior to CERT approval of participation of OECD non-member countries or international organisations in any Implementing Agreement, the Executive Committee shall:

- (a) have voted in favour of the applicant to join the Implementing Agreement and provide evidence of the same to the CERT;
- (b) provide the CERT with a copy of the terms and conditions of the applicant's participation in the Implementing Agreement; and
- (c) provide the CERT with a letter from the applicant expressing the applicant's desire to join the Implementing Agreement and specifying which Annexes it wishes to join; its acceptance of the terms and conditions of the Implementing Agreement; the name of its designated entity if it is not the applicant itself; and the name of the entity that will sign the Implementing Agreement.

3.2.3 The terms and conditions for the admission, participation and withdrawal of Contracting Parties, including their rights and obligations, in Implementing Agreements and their Annexes, if any, shall be established by the Executive Committee of each Implementing Agreement.

3.2.4 Notwithstanding Article 3.2.3, no Contracting Party from an OECD non-member country or international organisation shall have greater rights or benefits than Contracting Parties from OECD member countries.

3.3 Sponsors may be

- (a) entities of OECD member countries or OECD non-member countries who are not designated by the governments of their respective countries to participate in a particular Implementing Agreement; and
- (b) non-intergovernmental international entities in which one or more entities of OECD member countries or OECD non-member countries participate.

3.3.1 Participation of Sponsors in Implementing Agreements requires prior approval by the CERT.

3.3.2 Prior to CERT approval of Sponsor participation in any Implementing Agreement, the Executive Committee shall:

- (a) have voted in favour of the applicant to join the Implementing Agreement and provide evidence of the same to the CERT;
- (b) provide the CERT with a copy of the terms and conditions of the applicant's participation in the Implementing Agreement; and
- (c) provide the CERT with a letter from the applicant expressing the applicant's desire to join the Implementing Agreement and specifying

which Annexes it wishes to join; its acceptance of the terms and conditions of the Implementing Agreement; and the name of the entity that will sign the Implementing Agreement.

- 3.3.3 The terms and conditions for the admission, participation and withdrawal of Sponsors, including rights and obligations, in Implementing Agreements and their Annexes, if any, shall be established by the Executive Committee of each Implementing Agreement.
- 3.3.4 Notwithstanding Article 3.3.3, no Sponsor shall have greater rights or benefits than Contracting Parties from OECD non-member countries and no Sponsor shall be designated Chair or Vice-chair of an Implementing Agreement.
- 3.3.5 The CERT shall have the right to not approve participation of a Sponsor if the terms and conditions of such participation do not comply with this Framework, any Decisions of the CERT or the Governing Board and the Shared Goals of the IEA.

Article 4

Specific Provisions

- 4.1 Unless the CERT otherwise agrees, based on exceptional circumstance and sufficient justification, Implementing Agreements shall be for an initial term of up to, but no more than, five years.
- 4.2 An Implementing Agreement may be extended for such additional periods as may be determined by its Executive Committee, subject to approval of the CERT. Any single extension period shall not be greater than five years unless the CERT otherwise decides, based on exceptional circumstances and sufficient justification.
- 4.3 Notwithstanding Article 4.2, should the duration of the programme of work of an Annex exceed the term of the Implementing Agreement to which it relates, the CERT shall not unreasonably withhold approval to extend the Implementing Agreement for such additional period to permit the conclusion of the work then being conducted under the Annex.
- 4.4 Either the Contracting Parties or the Executive Committee of each Implementing Agreement shall:
 - 4.4.1 approve the programme activities and the annual programme of work and budget for the relevant Implementing Agreement;
 - 4.4.2 establish the terms of the contribution for scientific and technical information, know-how and studies, manpower, capital investment or other forms of financing to be provided by each participant in the Implementing

Agreement;

- 4.4.3 establish the necessary provisions on information and intellectual property and ensure the protection of IEA copyrights, logos and other intellectual property rights as established by the IEA;
- 4.4.4 assign the responsibility for the operational management of the programme or project to an entity accountable to the Executive Committee of the relevant Implementing Agreement;
- 4.4.5 establish the initial term of the Implementing Agreement and its Annexes;
- 4.4.6 approve amendments to the text of the Implementing Agreement and Annexes; and
- 4.4.7 invite a representative of the IEA Secretariat to its Executive Committee meetings in an advisory capacity and, sufficiently in advance of the meeting, provide the Secretariat with all documentation made available to the Executive Committee members for purposes of the meeting.

Article 5

Copyright

- 5.1 Notwithstanding the use of the IEA name in the title of Implementing Agreements, the Implementing Agreements, the Executive Committee or the entity responsible for the operational management of the programme or project may use the name, acronym and emblem of the IEA as notified to the World Intellectual Property Organisation (WIPO) only upon prior written authorisation of the IEA and solely for the purposes of executing the Implementing Agreements.
- 5.2 The IEA shall retain the copyright to all IEA deliverables and published or unpublished IEA material. Implementing Agreements wishing to use, copy or print such IEA deliverables and/or material shall submit a prior written request of authorisation to the IEA.

Article 6

Reports to the IEA

- 6.1 Each Executive Committee shall submit to the IEA:

- 6.1.1 as soon as such events occur, notifications of any admissions and withdrawals of Contracting Parties and Sponsors, any changes in the names or status of Contracting Parties or Sponsors, any changes in the Members of the Executive Committee or of the entity responsible for the operational management of the programme or project, or any amendments to an Implementing Agreement and Annex thereto;
- 6.1.2 annual reports on the progress of programmes and projects of the Implementing Agreement and any Annex;
- 6.1.3 notwithstanding Article 6.1.1, in addition to and with the Annual Report, annually provide the IEA with the following information:
- (a) the names and contact details of all current Contracting Parties and Sponsors;
 - (b) the names and contact details of all Contracting Parties and Sponsors who may have withdrawn from the Implementing Agreement or any Annex in the year covered by the Annual Report;
 - (c) the names and contact details of all new Contracting Parties and Sponsors who may have joined the Implementing Agreement or any Annex in the year covered by the Annual Report;
 - (d) any changes in the names or status of any Contracting Parties or Sponsors;
 - (e) the names and contact details of the Executive Committee members and the entity responsible for the operational management of the programme or project; and
 - (f) any amendments to the text of an Implementing Agreement and any Annex thereto.
- 6.1.4 End of Term Reports, which shall include all the information and documentation required by Decisions of the CERT then in effect and relating thereto; and
- 6.1.5 at the request of the IEA, any other non-proprietary information as may be requested by the IEA in connection with the IEA's mandate.

Article 7

Effective Date

This Framework shall take effect and become binding on all participants in the Implementing Agreements and Annexes from the date of its approval as a decision by the Governing Board.