Tools4LEAs

A project of the European Anti-Cybercrime Technology Development Association (EACTDA)

EACTDA

D1.6 IPR Management Handbook

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1.0	26/09/2023	Juan Arraiza	Final version, ready to be submitted.

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1. Introduction

1.1. Overview of the Tools4LEAs project

EACTDA is the acronym of the European Anti-Cybercrime Technology Development Association, which is a private non-profit association, established in San Sebastian, Spain. The members of the Association include European Union (EU) public entities fighting cybercrime, universities and research technology organisations, for-profit private companies, and other relevant actors in the field of the EU security research and innovation.

The Tools4LEAs projects are a series of projects that receive a Direct Award under the ISFP programme, and which main goal is to facilitate and promote the uptake of innovative technologies by EU public entities fighting cybercrime. EACTDA, via the Tools4LEAs projects, aims at further developing pre-existing assets, mainly from EU-funded security research and development projects, so that they are offered with no license cost and with access to the source code to EU public entities fighting cybercrime.

In the first Tools4LEAs project (v1; Jul'21 to Jun'23), the focus was on designing and setting up the infrastructures, processes, and governance / decision-making mechanisms, whilst delivering the first set of "fully-tested and operational-ready" tools via Europol's Tool Repository. Though 11 tools were further developed in the v1 project, it is expected that 3 of them will not be released to their targeted audience as they do not pass the pre-established quality threshold of "operational-ready". Also, an End-User Advisory Board (EUAB) composed as of Jul'23 by 23 members from 14 EU member states and co-chaired by two Europol units (EC3 and Innovation Lab) was established and it is the body responsible for identifying and prioritising end-user needs and which has veto right over the decisions done by EACTDA/Tools4LEAs with regard to the tool development roadmap.

In the second Tools4LEAs project (v2; Jul'23 to Jun'25), it is proposed to double the number of tools delivered. Also, the repository of tools implemented in v1, and currently used to host the results of the Tools4LEAs projects, will be enhanced and reused to host the results of EU-funded security research projects (when relevant in the field of cybercrime). EACTDA will play the role of custodian of these results, and the technical, IPR, and administrative aspects needed to create this new repository of security research results will be put in place. In addition, the v2 project will include a pilot to proof the concept of initial and limited support&maintenance periods for a selection of tools. Besides, a pilot of the concept of EACTDA National Nodes (NN) will be included, with nodes planned in Lithuania, France, Spain, and maybe one or two additional ones. Also, a platform for end-users to evaluate online tools will be implemented. Finally, the v2 project will include activities to further build the community of Tools4LEAs stakeholders and to promote the creation and/or adoption of technical blueprints, and in general, of commonly accepted best practices.

1.2. Main objective of this document

The main objective of this document is to provide the Intellectual Property Right (IPR) management handbook for the Tools4LEAs project. This document contextualizes what IPR means in the Tools4LEAs project, which is mainly focus on software IPR acquisition, protection, and management, it presents the IPR management strategy, and it also presents the operational IPR management procedures.

It is important to note that this document is based on the equivalent one from the Tools4LEAs first iteration project (2021-2023), including several updates and changes based on the experience gained

from that previous project and to adapt it to the scope and objectives of the Tools4LEAs-v2 project (2023-2025).

1.3. Relation to other deliverables

This deliverable is closely related to the following deliverables:

- **D1.7 Report on IPR management activities**: Deliverable D1.7 will present at the end of the project (month 24) the report of the IPR related activities conducted during the project.
- **D2.3 Exploitation management handbook, and D2.4 Report on exploitation management**: Deliverable D1.6 references to some elements and aspects of the exploitation strategy and planning of the Tools4LEAs project, which are presented in more details in deliverables D2.3 and D2.4.

1.4. Structure of the deliverable

Section 2 of this document introduces the concept of Software IPR and its management practices.

Section 3 presents how IPR management is to be done at EACTDA, including the IPR assets to be managed, the IPR management strategy and objectives, the governance bodies and the IPR management procedures established for the Tools4LEAs project.

Finally, section 4 summarises which is the goal and key aspects of this document, it acknowledges that there is still work to be done to improve the document, and it presents some of the areas of future work that have already been identified.

2. Intellectual Property Rights Protection and Management

The origin of international protection of intellectual property rights (IPR) dates back to 1883 when the Paris Convention for the protection of industrial property and inventions was signed[1]. The origin of the copy right reaches the XVII century and is related to the appearance of printed press in England[2]. However, trade secrets should be considered the oldest IPR. It dates back to ancient Roman times and is related to the prohibition to corrupt or make a slave worse[3]. The origin of IPR shows what it is originally designated to protect: invention and industrial property, original work of a person, or advantage in trade.

Tools4LEAs project will mainly deal with intellectual property (IP) of software which is slightly different from traditional IP. Software IP is mainly protected by copy right, patent and trade secrets, but industrial design, plant varieties trademarks, trade dress and related rights could also apply.[4] This handbook will focus on software IPR protection.

We would like to note that IPR protection depends on applicable national and international regulation. This handbook focuses on EU regulation, therefore it might differ from regulation applicable for US developed software.

Table 1 presents the main characteristics of each of the applicable types of IPR for software protection. As we can see in Table 1, different elements of software can be protected by different IPR types. The applicable protection of IPR depends on the IPR management strategy and the objectives of the software developer.

Table 1 Ways for software IPR protection

IPR type	Subject of protection	Registration required	Duration of protection	Remarks
Copyright	Software source and object code[5], user interface	No	Depends on national law. Usually, 50/70 years after the death of the last living author	-Proof of creation date, authorship, and originality needed
Patent	Invention (the scope differs in different countries)	Yes	Until the patent fee is paid, but not longer than 20 years	-applies only in countries and scope specified in the patent application. -provides the right to exclude -high maintenance costs
Trade secrets	Software source code, computer service, and	No	Unlimited or until secrecy is maintained	proof of being a trade secret and the date

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[1] Paris Convention for the Protection of Industrial Property, https://www.wipo.int/treaties/en/ip/paris/.

[2] A Brief History of Copyright, https://www.iprightsoffice.org/copyright_history/.

[3] Trade Secrets: History, https://www.digitalbusinesslawgroup.com/internet-lawyer-trade-secrets-history.html.

[4] Software can also be protected by trade dress and trade mark. But it is less applicable.

[5] Not protected if it is public domain software or if it protected as trade secret.

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	maintenance manuals			Protection by national laws

2.1. Software copyright

Copyright has been the most applicable method for software protection since 1980. Copyright protection for software was introduced as an argument that computer software is analogous to the traditional copyright category of an 'original literary work of authorship'[6], therefore the same way of protection should apply. It was firstly enacted in USA[7] and fallowed by the international 1995 TRIPS agreement (Art. 10 (1))[8] and the 1996 WIPO Copyright Treaty (Art. 5)[9]. The later documents emphasize that both in source and object code, must be protected by copyright. Later on, in 2009, the EU enacted it in Directive on the legal protection of computer programs (2009/24)[10].

The subject of copyright protection is usually prescribed as source code[11]. However, it also applies to the object code and user interface or to the separate elements of the user interface as well.

Copyright protection does not require registration and starts automatically when the software is created. However, despite its automatic application, some countries may still require to register software copyright additionally[12]. Also, copyright does not provide protection to public domain software and software protected as a trade secret.

The copyright provides its author with exceptional non-commercial and commercial rights.

The non-commercial rights are:

- right to the authorship
- right to the author's name.

Commercial rights are as follows.

- right to perform,
- right to display,
- right to copy,
- right to modify,

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[6] Ralph Oman, Computer Software as Copyrightable Subject Matter: Oracle v. Google, Legislative Intent, and the Scope of Rights in Digital Works, Harvard Journal of Law & Technology Volume 31, Special Issue Spring 2018, https://jolt.law.harvard.edu/assets/articlePDFs/v31/31HarvJLTech639.pdf.

[7] Lisa C. Green, Copyright Protection and Computer Programs: Identifying Creative Expression in a Computer Program's Nonliteral Elements, https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1032&context=iplj

[8] Agreement on Trade-Related Aspects of Intellectual Property Rights (as amended on 23 January 2017), https://www.wto.org/english/docs_e/legal_e/31bis_trips_01_e.htm.

[9] WIPO Copyright Treaty, https://www.wipo.int/treaties/en/ip/wct/

[10] Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32009L0024.

[11] Alan Story, *Intellectual Property and Computer Software*, https://unctad.org/system/files/official-document/ictsd2004ipd10_en.pdf

[12] Software Copyright Mini Guide 2021, https://cpl.thalesgroup.com/software-monetization/software-copyright-guide

- right to distribute
- right to sublicense.

As Table 2 illustrates, there are four types of software copyright licences:

1. permissive Open Libre / Open Source Software (FLOSS) licence – it grants use rights and includes right to relicense (allows proprietization, license compatibility);
2. copyleft FLOSS license - grants use rights but forbids proprietization;
3. non commercial license – grants rights for noncommercial use only. May be combined with copyleft FLOSS license.
4. Proprietary license, also known as non-free software or closed-source software, is computer software for which the software's publisher or another person reserves rights to use, modify, share modifications, or share the software. Proprietary license sometimes includes patent rights[13].

Table 2 Software licenses and rights granted in the context of the copyright[14].

Copyrights granted	Public domain	Permissive FLOSS license	Copyleft FLOSS license	Freeware/ Shareware/ Freemium *(non-commercial license)*	Proprietary license
	PD, CC0	MIT, Apache, MPL	GPL, AGPL	JRL, AFPL	no public license
Copyright retained	Yes	Yes	Yes	Yes	Yes
Right to perform	Yes	Yes	Yes	Yes	Yes
Right to display	Yes	Yes	Yes	Yes	Yes
Right to copy	Yes	Yes	Yes	Often	No
Right to modify	Yes	Yes	Yes	No	No
Right to distribute	Yes, under the same conditions	Yes, under same license	Yes, under same license	Often	No
Right to sublicense	Yes, but under the same conditions	Yes	No	No	No

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[13] Alan Story, *Intellectual Property and Computer Software*, https://unctad.org/system/files/official-document/ictsd2004ipd10_en.pdf

[14] Based on Mark Webbink, *Packing Open Source*, https://www.jolts.world/index.php/jolts/article/view/26/35

2.2. Software patent

A software patent is a type of IP that gives its owner the legal right to exclude others from making, using, or selling an invention on a piece of software, such as a computer program, libraries, user interface, or algorithm for a limited period of time in a limited territory.

To obtain a patent, inventors must meet the novelty requirements, file patent applications in each and every country in which they want a patent to be issued, and ones it is issues maintain the patent by paying certain amount of patent fee. Differently from copyright, IPR rights under patents apply only if registered and in territories where it is registered.

The territorial aspect of patent applies not only to its protection scope but also to the patentability requirements and scope of software that can be patented.

Patent and copyright protection might cover the same scope, but they serve a different purpose. Copyright protection allows the creator of software to prevent another entity from copying the program. Patents give their owners the right to prevent others from using the technology defined by the patent claims[15]. That naturally causes complains from the open-source community because license fees demanded by patent owners are too high, offered licenses with terms that the open-source software developers cannot accept because it conflicts with the concept of free software license[16].

Patented software is licensed under conditions set by its owner. Even though it might be free, because of the nature of the patent itself, it is an exception rather than a general rule. Usually royalty payment or lump sum fee is foreseen in patented software license agreement.

2.3. Software trade secret

Trade secrets are information of any type that is valuable to its owner because it is not generally known in the industry and its owner has taken reasonable steps to maintain the information in confidence[17].

The codes in FLOSS programs are not protected under trade secret laws as they are open, non-confidential. But proprietary software developers choose to keep their source code trade secret or patent. Although the software object code can be licensed, keeping source code as a trade secret ensures the exclusivity for its owner.

Computer service and maintenance manuals might also be protected as software trade secrets.

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[15] Decision T 1173/97 (Computer program product/IBM) of 1.7.1998, European Patent Office, Boards of Appeal, 1 July 1998, Decision T 0424/03 (Clipboard formats I/MICROSOFT) of 23.2.2006, European Patent Office Boards of Appeal, 23 February 2006.

[16] Software Patents in Action, https://web.archive.org/web/20070210164646/http://swpat.ffii.org/patents/effects/.

[17] What is a trade secret?, https://www.wipo.int/tradesecrets/en/.

3. IPR management at EACTDA

3.1. Software IPR management

EACTDA owns foreground IPR. To ensure protection of the rights, the fallowing measures have to be taken:

1. Special clauses on IPR ownership by EACTDA and confidentiality commitment must be specified in employment contracts and agreements with contractors (legal and natural persons).
2. Non-disclosure agreements must be signed by other subjects that are willing to cooperate with EACTDA and access confidential information.
3. licenses must be issued to the foreground developed. The type of license and special closes depend on the licensee and the method chosen for IPR protection.

3.2. IPR management of Knowledge and Content

In addition to software, EACTDA also produces knowledge and content, parts of which EACTDA would like to use internally and to share it only with selected entities, individuals, etc., and other parts EACTDA would like to share with the community as a whole.

An example of this is the contributions EACTDA does to the DevSecOps Body of Knowledge initiative for the EU public security research and innovation community.

Managing Intellectual Property Rights (IPR) within the context of the DevSecOps Body of Knowledge (BoK) involves the dual objective of safeguarding intellectual property while facilitating collaborative knowledge creation and sharing. It is of paramount importance to select the appropriate licensing model for the DevSecOps BoK. Many open knowledge initiatives opt for Creative Commons licenses, granting authors the ability to specify the terms under which their work can be shared, reused, and modified. Often, the CC BY-SA (Attribution-ShareAlike) license is chosen to foster open collaboration.

Additionally, it is imperative to conspicuously declare the selected license(s) for the DevSecOps BoK. This information should be prominently featured on the project's website or within its documentation, ensuring ease of comprehension for both users and contributors regarding the terms of utilization. In cases where the chosen license mandates attribution, licensees must ensure that contributors receive due credit for their contributions. This entails acknowledging their input within the BoK and adhering to any stipulated attribution requirements.

Consideration may be given to implementing contributor agreements that delineate the conditions under which individuals contribute their work to the DevSecOps BoK. These agreements can be instrumental in clarifying matters related to copyright, licensing, and attribution.

Furthermore, it is advisable to maintain a transparent version control system for the DevSecOps BoK content. Such a system aids in tracking contributions, revisions, and the evolution of knowledge over time. Version control platforms like Git can prove invaluable for this purpose.

Establishing a robust review process for contributions is also recommended to ensure alignment with the quality and content standards of the DevSecOps BoK. This process may encompass peer reviews and editorial oversight.

Consequently, keeping the BoK content current to reflect prevailing best practices and emerging trends in DevSecOps is essential. This may necessitate periodic revisions and the expansion of existing content.

Moreover, regular monitoring of the use of DevSecOps BoK content is essential to verify compliance with the chosen license. Promptly address any instances of non-compliance or misuse. This proactive approach aids in the effective management of IPR within the DevSecOps Body of Knowledge while fostering open collaboration and the sharing of knowledge within the framework of the chosen licensing model.

3.3.   Software Intellectual Property Rights Portfolio Management

Mostly, software IPRs portfolios are managed by special IPRs management tools. For example, non commercial IPR management tools are FOSSology, SPDX tools. Commercial tools can be used as well: Foundation IP[18], IPfolio[19], PATTSY WAVE[20], Alt Legal[21], AppColl[22], DocketTrak[23], ClaimMaster[24], AQX[25], Decipher[26], Inteum[27], Equinox[28] and others.

All of these commercial products offer similar functionalities:

- Automated binary and source code analysis with multi-language support;
- Full integration with ipan/Delegate Group's maintenance services, including patent annuities and trademark renewals[29];
- Provide workflows to control the software IPR throughout the lifecycle, based on defined licensing policies;
- Approves, Disaproves licensing mechanisms, as well as billing of materials for software releases summarizing components, licenses, approval status and license violations.
- Recognises different levels of code fragment and detects the reuse of code.
- Policy management, reporting, and dashboard features.

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[18] Foundation IP, https://www.foundationip.com/foundationIP/.

[19] IPfolio,   https://clarivate.com/products/ip-lifecycle-management/patent-and-trademark-management-software/ipfolio/.

[20] PATTSY WAVE, https://www.g2.com/products/pattsy-wave/reviews.

[21] Alt Legal, https://www.altlegal.com/.

[22] AppColl, https://www.appcoll.com/?https%3A%2F%2Fwww_appcoll_com%2F&gclid=CjwKCAjwrfCRBhAXEiwAnkmKma xIWMnMsQexgINKgb9KIvLRDVL90Fq-BvUMINAL7HL5_KdtmCkKDhoCGmAQAvD_BwE

[23] DoketTrack, http://www.dockettrak.com/.

[24] ClaimMaster, https://www.patentclaimmaster.com/.

[25] AQX, https://www.anaqua.com/aqx-corporate/.

[26] Decipher, https://www.innovation-asset.com/.

[27] Inteum, https://www.inteum.com/.

[28] EQuinox, https://equinox-ipms.com/platform/ip-services/.

[29]   IPfolio,   https://clarivate.com/products/ip-lifecycle-management/patent-and-trademark-management-software/ipfolio/.

- Support for integration of code scan in Continuous Integration platforms via command line interface execution and etc.[30]

To manage IPR in the Tools4LEA project, it is recommended to use one of the above-mentioned or other IPR management software.

A Software Bill of Materials (SBOMs) typically includes information about open-source libraries, third-party components, proprietary code, and their respective licenses. It is primarily used for tracking and managing the software supply chain, ensuring security, and understanding the licensing obligations associated with the software components. Even though SBOM is not a primary tool for software IPR management, However, the concept of checking IPR compliance within a SBOM can involve a combination of tools and processes to ensure that the software components and their associated licenses align with EACTDA IPR policies.

Below the approach to "checking" IPR within an SBOM is provided:

1. **SBOM Generation:** First, a comprehensive SBOM for the projects needs to be generated by project owners. This can be done using SBOM generation tools, which can automatically identify and list all the components and their licenses.

2. **License Analysis Tools**: EACTDA IPR management team shall use any of above-mentioned license analysis tool that can examine the SBOM and identify the licenses associated with each software component.

3. **EACTDA IPR Policy Compliance**: IPR management team shall check and specify which licenses are acceptable and which are not, based on EACTDA IPR management policy and this IPR management handbook, as well as identify any specific rules regarding proprietary code and copyright.

4. **Manual Compliance Review**: EACTDA IPR management team shall conduct a manual review of the SBOM to identify any components with licenses that may raise IPR concerns. This will help to identify licenses that are not compatible with EACTDA IPR management handbook, EACTDA license agreements requirements or licenses that may have restrictive clauses.

5. **Risk Assessment:** EACTDA IPR management team shall assess the risks associated with the identified licenses. Some licenses, such as copyleft licenses, may have obligations that need to be carefully managed to avoid IP infringement. Also, it is important to evaluate if there is no restriction to improve the tool and it complies with EACTDA IPR licence agreements.

6. **Documentation:** EACTDA IPR management team shall maintain detailed documentation of the SBOM analysis, including the identified licenses, any actions taken to address compliance issues, and legal opinions if necessary.

7. **Periodic Review:** EACTDA IPR team shall quarterly monitor and review SBOMs and its IPR compliance to ensure that it remains up to date and compliant with EACTDA IPR management requirements.

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[30] Intellectual Property (IPR) Management and Monitoring Tools, https://medium.com/the-server-labs/intellectual-property-ipr-management-and-monitoring-tools-dac232c46794.

3.4. IPR management strategy

IPR management refers to the administration and organisation of intellectual property matters in institutions[31].

The objective of Tools4LEA project is to manage IPR in a way to provide LEAs with preferably no license cost software that they could use for law enforcement purposes and, in case of improvement, license the IP improvements to EACDTA.

To do so, the Tools4LEA project will manage IPR software based on the IPR management strategy presented in this deliverable.

3.4.1. Objectives of the IPR Management Strategy

Below we present the objectives of the Tools4LEAs' IPR management strategy:

1. Ensure the consistent management of IP under the project.
2. Ensure effective dissemination of innovation that meets LEAs' objectives through IP management.
3. Minimize IPR risks associated with improving the software developed and using upgraded software for law enforcement purposes.
4. Optimize IP assets through technology transfers to LEAs and innovation partnerships.

3.5. Description of the IPR management bodies and roles

The IPR will be managed by the EACTDA IPR management team. The management of Intellectual IPR will be handled by the EACTDA IPR management team. External advisors may be consulted in cases where the IPR management team encounters issues beyond its capacity to address (See Figure 1).
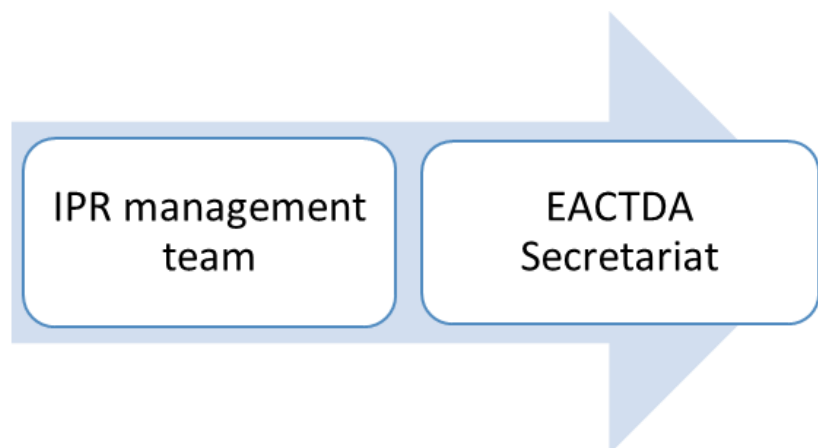

Figure 1 Tools4LEA IPR management bodies

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[31] 'IP4groth', Intellectual Property Management, http://www.cires-ci.com/pdf/IP4GROWTH/IP4GROWTH%20-%20Intellectual%20Property%20Management.pdf.

The IPR Management Team shall manage the IPR by creating the IPR portfolio, analysing and auditing it, providing the EACTDA Secretariat with analytical insights based on the reports of the IPR management software tool.

The Intellectual Property Management Team consists of the Tools4LEAs project Task 2.5 team. External advisors (law firm) might be hired to find solutions for exceptional and/or complex situations.

The main roles of IPR management team include:

1. organizing the IPR portfolio;
2. the on-going monitoring of IPR portfolio (including IP that is under development);
3. the documentation of IP and the preparation of licensing contracts and other agreements;
4. providing recommendations to the EACTDA secretariat on foreground IPR protection;
5. the establishment of IP audit policy;
6. performing an IP audit not less than twice a year;
7. presenting reports on IP portfolio, management issues, and IP audits to EACTDA Secretariat and IPR Committee twice a year, more often, under the request of EACTDA Secretariat;
8. promptly notifying to EACTDA Secretariat any issues related to IPR management.

The EACTDA Secretariat shall plan and act strategically based on the recommendations and reports provided by the IPR Management Team.

3.6.   Description of IPR management procedures

3.6.1.   Basic Rules of IPR Ownership

There are 5 types of IPR relevant to the Tools4LEAs project:

1. **Background IPR** refers to the IPR of software before it is licensed to EACTDA by license.
2. **Foreground IPR** refers to the software IPR that is developed by EACTDA or other legal or natural person contracted by EACTDA to improve the software (background IPR) licensed to EACTDA.
3. **Sideground IPR** refers to IPR related to EACTDA software development. These rights pertain to any work created outside of the current EACTDA project by any of the primary or current developers of the tool during the tool's development phase under the EACTDA project.
4. **Postground IPR** refers to IPR relevant to EACTDA software tool but are created by any of the primary or current developers after the conclusion of the development phase under the EACTDA project.
5. **LEAs IPR** refers to the software IPR that is developed by LEAs or any other end user organization to improve the software that contains Background IPR and Foreground IPR and is licensed by EACTDA to LEAs or other end users.

Background IPR belongs to the software provider (legal or natural person) that licensed it to EACTDA. Background IPR might contain IPR that is owned by the software provider and IPR that the software provider has a license to or public domain IP. All types of IP must be licensed to EACTDA with a right to sublicense.

The foreground IPR belongs to EACTDA. The foreground IPR ownership clauses have to be specified in contracts with EACTDA employees or technology developers.

Sideground IPR is owned by the primary or EACTDA developers of the tool. EACTDA may acquire licenses to enhance the EACTDA tool using sideground IPR.

Postground IPR is held by the primary or EACTDA developers of the tool. EACTDA may obtain licenses to further enhance the EACTDA tool using postground IPR, even after the initial development of the EACTDA tool has been completed.

LEAs IPR belongs to LEAs that developed it. LEAs will give EACTDA a nonexclusive, nonrevocable license with the right to sublicense and improve it.

3.6.2. IPR Portfolio Creation

The IPR portfolio is the main document where the information on IPR within an entity is compared and organized. IPR portfolios are created, analysed, and monitored by special software tools (please read more in paragraph 2.4 'IPR portfolio management"). The information provided by software tools helps:

1. record and document IPR (background IPR, foreground IPR, LEAs IPR);
2. analyze background IPR composition, applicable patents, licenses, or other types of IPR;
3. monitor the life cycle of software protected by IPR;
4. identify possible unlawful usage of software IPR or its elements;
5. enforce and defend the IPR against infringements;
6. supervise the third-party software developments;
7. provide proposals to the EACTDA secretariat on the exploitation of IPR.

Based on the results provided by the software tool, the IPR management team shall constantly monitor the Tools4LEAs project-related IPR, prepare the license agreements, and perform IPR audits.

3.6.3. 'Innovation for LEA' licensing

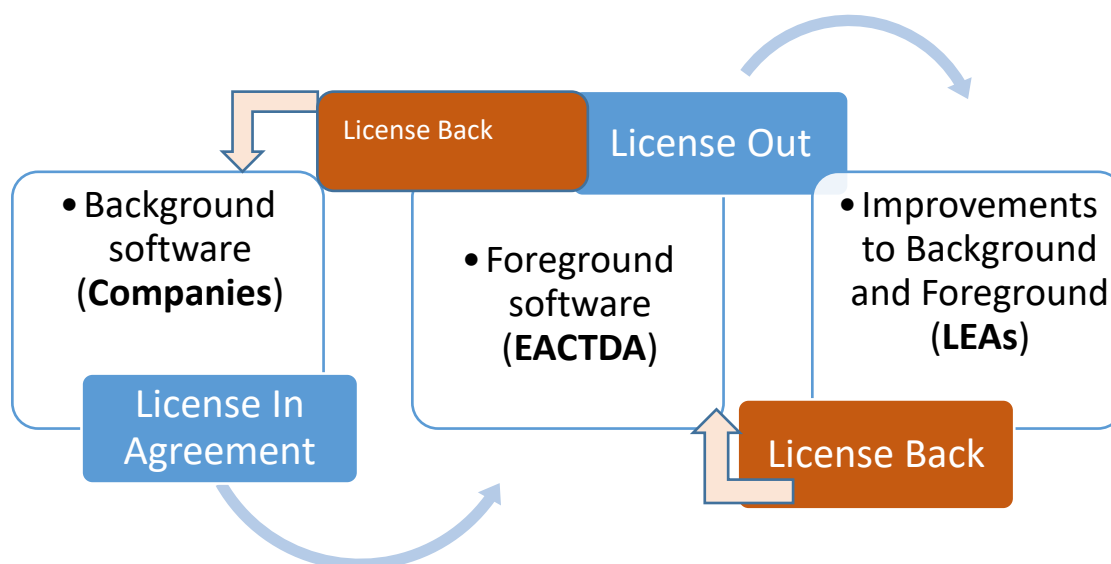Licensing of IPR includes signing of "pre-agreement", licensing of background, foreground, and LEAs IPR.

Figure 2 "Innovation for LEA" license zero cost scheme

The "pre-agreement" between EACTDA and technology providers will be signed before entering into background licensing agreement (a template can be found in Annex I). The "pre-agreement" clarifies that technology providers are willing to license their background to EACTDA with no license cost and access to the source code so that EACTDA can further develop it and sublicense it to its intended end-users.

The background software IPR will be licensed by technology providers to EACTDA by signing the licensing-in agreement (a template can be found in Annex II). The background software technology provider shall provide complete information on its IPR software before entering the licensing agreement. The information required is provided in Table 3.

Table 3 Background software IP questionnaire

Company name	[…]
Title of software	[…]
Is your software IPR protected or it is public domain?	[…]
IPR protection method(s) chosen (copy right, patent, trade secret)	[…]
Which elements of software are IPR protected and specify how	[…]
Specify the license(s) used to create software IP	[…]
Does this license(s) have a right to sublicense?	[…]
Specify your software license(s)	[…]
Does this license(s) grand a right to sublicense?	[…]
Does this license allow us to use and sublicense the software IP free of charge to EACTDA with the purpose of improving it by modifying source code and further sublicense to law enforcement institutions and other public bodies under the same conditions?	[…]

In addition to the information provided by the company on the IPR software, the IPR management team should scan background software with the IPR software management tool. Any incompatibilities between the results of the IPR management software tool analyses and the information provided by the company according to Table 3, or information on any potential infringement of 3rd party IPR, must be provided to EACTDA Secretariat and the company itself. If the company agrees with the results of the IPR scan, it must provide an updated Table 3 questionnaire. In case of disagreement, the company provides written explanation to the ECTDA secretariat. The EACTDA Secretariat takes a decision on entering or not entering into the agreement with the mentioned company after the consultation with the IPR Management Committee. The agreement shall not be signed if there is any infringement of 3rd party IPR.

The foreground software IPR will be licensed to:

1. background software company by signing Licensing Back Agreement (a template can be found in Annex III).
2. LEAs and other end users by signing the License Out Agreement (a template can be found in Annex IV). To ensure that the tool developed by EACTDA is used in compliance with human rights, a special provision has been established in the License Out Agreement (Art. 4.3).

The sideground and postground IPR shall be licensed to EACTDA by signing non-commercial IPR licence agreement.

Table 4 LEAs improved IP

Company name	[…]
Title of software	[…]
Is your software IPR protected or it is public domain?	[…]
IPR protection method(s) chosen (copy right, patent, trade secret)	[…]
Which elements of software are IPR protected and specify how	[…]
Specify the license(s) used to create software IP	[…]
Does this license(s) have a right to sublicense?	[…]
Specify your software license(s)	[…]
Does this license(s) grand a right to sublicense?	[…]
Does this license allow us to use and sublicense the software IP free of charge to EACTDA with the purpose of improving it by modifying source code and further sublicense to law enforcement institutions and other public bodies under the same conditions?	[…]

Any improvements and modifications made by LEAs shall be notified to EACTDA and licensed back to EACTDA with a non-exclusive, non-revocable world-wide license to any improvements or amendments to Software or it's object or source code with a right to sublicense it under the same or analogous terms to this licence.

The LEAs shall provide a notification of the improvements and modifications made to the software by filling in the information provided in Table 4.

Table 5 5 LEAs improved IP

Name of the law enforcement institution or other end user	[…]
Title of the software use	[…]
Software version after improvements or modifications	[…]
IPR protection method(s) chosen (copy right, patent, trade secret)	[…]
What elements of improvements or modifications are protected and how?	[…]
Specify license(s) used to improve or modify software IP	[…]
Does this license(s) grand a right to sublicense?	[…]
Specify your type of software license(s).	[…]
Does this license(s) grand a right to sublicense?	[…]

In addition to the information provided by the company about the improvements or modifications to the IP of the software, the IPR management team should scan the background software with the IPR software management tool. Any incompatibilities between the results of the IPR management software tool analyses and the information provided by the LEA in accordance with Table 5 must be provided to EACTDA Secretariat and the LEA itself. If LEA agrees with the results of the IPR scan, it must provide an updated Table 5 questionnaire. In case of disagreement, LEA provides written explanation to the ECTDA secretariat. The EACTDA secretariat takes a decision to enter or not enter into the agreement and initiate the breach of the License Out Agreement with the LEA mentioned after the consultation with the IPR Management Committee.

The main distribution channel of the Tools4LEAs tools, owned by EACTDA, will be Europol's Tool Repository (ETR). The process of EACTDA tool licensing to EUROPOL based on ETR model agreement is as follows:

1. Initial Assessment:

The process typically begins with EACTDA offering the tool to Europol and conducting an initial assessment to determine whether the tool aligns with Europol's needs and objectives. Legal and technical experts from both EACTDA and EUROPOL review the tool's capabilities and potential suitability for EUROPOL ETR.

2. Licensing Agreement Framework:

Once Europol expresses interest in the tool, the parties establish the framework for the licensing agreement. This includes defining the scope of use, duration, and any specific terms and conditions based on ETR model agreement (Annex 5). EACTDA grants Europol and Users a non-commercial, non-competitive, non-exclusive, royalty-free, perpetual (to the extent allowed by law) licence to use the tool. No other property rights are transferred by this agreement. The tool is provided "as is", with no

obligation for the EACTDA to provide updates to the tool. Updates, enhancements, improvements or other modifications can be provided on a voluntary basis by the EACTDA.

3. Negotiation (if necessary):

Negotiations between EACTDA and Europol teams commence to finalize the details of the licensing agreement. This involves discussing access rights, and any customization or integration requirements.

4. Customization (If Applicable):

If the tool requires customization to meet Europol's specific needs, EACTDA's development team may work closely with Europol's technical experts to tailor the tool.

5. Approval:

Once the ETR agreement draft agreement is legally sound and satisfactory to both parties, it undergoes internal approval processes within EACTDA and Europol. This may involve review by higher-level management or legal experts.

6. Signing:

After approval, the licensing agreement is signed by authorized representatives from EACTDA and Europol. This formalizes the licensing arrangement.

3.6.4. IPR Portfolio Monitoring and Auditing

IP portfolio management has different purposes depending on the type of its owners. Management of IPRs is usually part of the general business strategy in innovative private companies. Therefore, the monitoring of IPR has the purpose of making profit from it. The purpose of IP management in research and education institutions is to get scores for the external evaluation, to prove the results of the research, or to transfer technologies into private companies. The objective of IPR portfolio management in Tools4LEA project is to ensure the smooth implementation of the Tools4LEAs projective objectives, ensure legal use of background, foreground, and LEAs IPR. Therefore, the objective of monitoring and auditing the IPR portfolio is to collect and verify information on the IPR of the project, its management and to provide relevant information and recommendations to the EACTDA Secretariat.

The IPR Management Team is responsible for the monitoring and audit of IPR. The fallowing aspects should be taken into account for IPR audit:

1. Information and reports from software IPR management tool:
   a. Identification of existing IPR.
   b. the reuse of software codes - analyses of the reuse of software coded in comparison with licenses issued and licensees recorded in IPR portfolio would provide information if there is no IPR infringement.

Table 6 Legality of reuse of software code

Re-user of software codes	Software title	Type of the licence applicable	Has the re-user of software code a license?	Rights granted by license	Is the reuse in accordance with a license?

1.	[…]	[…]	[…]	[…]	[…]	[…]
2.	[…]	[…]	[…]	[…]	[…]	[…]

    c. Identification of existing licensing agreements – the comparing of the data on newly done licensing agreements with the previous period would show the change, companies that license background IPR to EACTDA as well as LEAs that licenses software from EACTDA.

    d. Use of software – data about the use of software would provide information about relevant end users groups. Consequently, conclusions can be drawn about who is using it the most, as well as what type of crimes or other potentially criminal/dangerous activities EACTDA helps to fight the most, which EACTDA tool of crime investigation is the most popular and least popular among LEAs.

    e. Analyzes of software IPR – the data will show if there are no infringements of third-party IPR.

    f. Analyses of third-party software developments would provide data on potential software that could be licensed to EACTDA and included in EACTDA tools repository.

Please note that the precise scope of IPR monitoring and audit depends on functionalities of chosen IPR management tool.

    2. Information on IPR protection:

    a. Analyzes of IPR protection methods chosen in comparison to how much of IP is public domain.

    b. Revision of signed employment contracts to check if all employees have clauses on IPR ownership and confidentiality.

    c. Analyses on NDA signed to understand who are interested in a project.

    d. Maintenance detailed records for each IP asset, including registration documents, maintenance fees, licensing agreements, and any legal correspondence related to IP enforcement or disputes.

    e. Regular risk assessments to identify potential threats to EACTDA IP (such as market changes or technology advancements) and opportunities (such as, sideground IPR) shall be performed.

    f. Review existing licensing agreements to ensure compliance and assess their effectiveness protecting EACTDA IP.

The above presented points of IPR management are examples of what to analyse when conducting an IPR audit. Special attention has to be paid to the problematic questions on IPR management and the IPR of the tools that are of strategic importance or most relevant to LEA's.

The IPR Management Team presents the results of the IPR audit to the EACTDA Secretariat and IPR Management Committee. Based on the information provided, EACTDA Secretariat amend takes the decisions on IPR management and Tools4LEAs project activities.

The procedure of IPR audit

1. Inventory of IP Assets: EACTDA IPR management team creates a comprehensive list of all IP assets, including copy rights, patents, trademarks, copyrights, trade secrets, and any other relevant IP rights.
2. Ownership Verification: EACTDA IPR management team the ownership and validity of each IP asset to ensure that it is properly registered and maintained.
3. Documentation Review: EACTDA IPR management team examines all relevant documents, agreements, and contracts related to IP, including licensing agreements, employee agreements, partnership agreements, etc.
4. Rights and Obligations Assessment: EACTDA IPR management team assesses the rights and obligations associated with each IP asset, including licensing agreements, contractual obligations, and any limitations on use or enforcement.
5. Value for LEAs: EACTDA IPR management team Evaluate the value of IP assets for and their potential use of LEAs. It shall be done at least in cooperation with LEAs that are EACTDA members.
6. Infringement and Enforcement: EACTDA IPR management team analyzes whether there are any ongoing infringements of EATDA IP rights and assess.
7. Competitive Analysis: EACTDA IPR management team examines the IP activities in a market to identify potential infringements or opportunities for collaboration or licensing.
8. IP Policies and Procedures: EACTDA IPR management team Reviews the EACTDA internal policies and procedures related to IP management.
9. Protection Measures: EACTDA IPR management team assess the adequacy of security measures in place to protect trade secrets and confidential information.
10. Licensing: EACTDA IPR management team evaluates licensing agreements in place and their alignment with the EACTDA IPR handbook.
11. Risk Assessment: EACTDA IPR management team evaluates identifies and assesses potential risks related to IP, such as litigation risks, potential challenges to IP rights, and changes in laws or regulations.
12. Recommendations and Action Plan: EACTDA IPR management team based on the audit findings, provide recommendations for improving IP management, reducing risks, and maximizing the value of IP assets. Develop an action plan to implement these recommendations.
13. Regular Updates and Monitoring: EACTDA IPR management team implements a system for regular updates and ongoing monitoring of IP assets and related activities to maintain compliance and strategic alignment.

4. Summary

4.1. Conclusions

In this document we have introduced the concept of IPR management in Tools4LEAs project. It mainly focuses on software IPR acquisition, protection, presents the IPR management strategy, and operational IPR management procedures. Additionally, the license agreement templates are prepared and annexed to the handbook. We believe, the implementation of the IPR management strategy and procedures will contribute to implementation of Tools4LEAs-v2 project objectives.

4.2. Evaluation

The work presented in this document is considered to be sufficient to launch the IPR management processes of the Tools4LEAs-v2 project. This handbook builds on the experience gained during the Tools4LEAs-v1 project, which has proved to be valid. However, as a continuous improvement approach will be implemented, the IPR management process, and therefore this handbook, might be updated during the lifetime of the project to adapt to the new needs.

4.3. Future work

IPR management handbook is a living document that will be updated on case-by-case basis. The Tools4LEAs project will manage IPR, perform audits and implement the procedures based on the recommendations provided in this handbook.

Also, the templates provided in the ANNEXES are going to be reviewed by an expert legal advisor and they will most likely be updated.

ANNEX I – pre-agreement template

The latest version of the template can be found at EACTDA / Tools4LEAs repository at:

https://vicomtech.box.com/s/1v6est0y4lidj1sp8itf4vhmtdlhsny5

As of the time of submitting this deliverable, the latest version of the template is as follows:

Pre-Agreement template

Version:	1.0	
Delivery date:	28/02/2022	
Dissemination level:	CONFIDENTIAL (only for members of the consortium; including the Commission services)	
Status	FINAL	
Nature:	TEMPLATE	
Main author(s):	Eva Skruba (EACTDA)	
Contributor(s):	Juan Arraiza (EACTDA)	

DOCUMENT CONTROL

Version	Date	Author(s)	Change(s)
0.1	22/02/2022	Eva Škruba (EACTDA)	TOC and initial text
0.2	23/02/2022	Juan Arraiza (EACTDA)	First version for all sections completed. Requested contributions from EACTDA members and key stakeholders.
0.3	23/02/2022	Eva Škruba (EACTDA)	Updated with received minor corrections and fixes, and feedback from reviewers.
1.0	28/02/2022	Eva Škruba (EACTDA) Juan Arraiza (EACTDA)	Final version. Approved.

Pre-Agreement

REF #: [***UNIQUE ID TO BE PROVIDED BY EACTDA SECRETARIAT***]

I.   THE PARTIES

This agreement is made the _____ day of _____ 202_,

BETWEEN

The European Anti-Cybercrime Technology Development Association, represented by Juan Arraiza Irujo, Business Manager, hereinafter referred to as EACTDA

AND

[***NAME OF THE TECHNOLOGY PROVIDER PARTICIPATING IN THIS COLLABORATION***], represented by [***NAME OF THE LEGAL REPRESENTATIVE***], [***POSITION OF THE LEGAL REPRESENTATIVE***], hereinafter referred to as [***TECHNOLOGY PROVIDER'S ACRONYM***]

And collectively referred to as "the Parties".

II.   DEFINITIONS AND INTERPRETATIONS

Asset	means any work (piece of software, tool, prototype) created by the Technology Provider and the intellectual property rights pertaining to it.
Background Technology	means all Software, data, know-how, ideas, methodologies, specifications and other technology in which the Technology Provider owns such Intellectual Property Rights. Background Technology also includes any general consulting tool or methodology created by the Technology Provider.
Foreground Technology	means the inventions (not necessarily patentable), patent(s), including any improvements, continuation, divisional applications derived from such patent(s), trade secrets, know-how, software, designs, written works, samples, biological materials, and technical information (confidential or not).
Source Code	means a form in which a computer program's logic is easily deduced by a human being with skill in the art, such as a printed listing of the program or a form from which a printed listing can be easily recognized.

III.   SUBJECT OF THE AGREEMENT

The subject of this Pre-Agreement is to define the intent of collaboration between the Parties for further development and enhancement of Assets, owned by [***TECHNOLOGY PROVIDER'S ACRONYM***], so that the result, including the original Background Technology and the newly developed Foreground Technology, will be available with no license cost and with access to the Source Code to the EU public security entities fighting cybercrime.

This Pre-Agreement establishes the collaboration framework under which [***TECHNOLOGY PROVIDER'S ACRONYM***] can offer its Assets to EACTDA. When [***TECHNOLOGY PROVIDER'S ACRONYM***] identifies the Assets that can be offered and that might fall under the scope of this collaboration agreement, [***TECHNOLOGY PROVIDER'S ACRONYM***] will inform EACTDA about it via capabilitymanager@eactda.eu, providing the name and description of the offered Asset, the reference ID of this Pre-Agreement, and the information requested at the "*Tools4LEAs_Offered-tool_Information-sheet (TEMPLATE)*" form which can be requested to the aforementioned email address.

EACTDA will include the Assets, offered by the [***TECHNOLOGY PROVIDER'S ACRONYM***], in a list of tools that can be further developed. The EACTDA End-User Advisory Board will vote on the listed tools and prioritize them according to their needs. After that, EACTDA will initiate the process of launching new projects for further development of the tools that are listed as top-priority. In case the Assets, owned by the [***TECHNOLOGY PROVIDER'S ACRONYM***] are among the top-priority tools, EACTDA will contact the [***TECHNOLOGY PROVIDER'S ACRONYM***] in order to initiate the process of negotiating and launching new further development projects.

For detailed information on policies, terms and conditions of the Tools4LEAs project, as well as for requesting information about the licensing scheme of the Tools4LEAs project you can contact capabilitymanager@eactda.eu.

IV.   ENTRY INTO FORCE, DURATION, AND TERMINATION

This Pre-Agreement shall have effect from the Effective Date identified at the beginning of this Agreement.

V.   ENTIRETY

This Pre-Agreement, including all Annexes, embodies the entire and complete understanding and agreement between the Parties and no amendment will be effective unless signed by both Parties.

VI.   PRINCIPAL CONTACTS

The principal contact people for the management and successful implementation of this Pre-Agreement are:

FOR EACTDA   FOR [*** TECHNOLOGY PROVIDER ***]

Name: [*** NAME ***]   Name: [*** NAME ***]
Position: [*** POSITION ***]   Position: [*** POSITION ***]

Email: [*** EMAIL ***]   Email: [*** EMAIL ***]

Telephone: [*** TELEPHONE ***]   Telephone: [*** TELEPHONE ***]

VII.   SIGNATURES

IN WITNESS whereof the parties hereto have signed this Agreement on the day and year first above written by the undersigned authorised representatives.

FOR EACTDA   FOR [*** TECHNOLOGY PROVIDER ***]

Name: [*** NAME ***]   Name: [***   NAME   ***]

Title: [*** TITLE ***]   Title: [*** TITLE ***]

Date: [*** DD/MM/YYYY***]   Date: [*** DD/MM/YYYY***]

Stamp of the institution: Stamp of the institution:

ANNEX II – Licensing-in template

The latest version of the template can be found at EACTDA / Tools4LEAs repository at:

https://vicomtech.box.com/s/1v6est0y4lidj1sp8itf4vhmtdlhsny5

As of the time of submitting this deliverable, the latest version of the template is as follows:

"Licensing-in" licence template

Version:	1.0	
Delivery date:	March 2022	
Dissemination level:	CONFIDENTIAL	
Status	APPROVED	
Nature:	TEMPLATE	
Main author(s):	Juan Arraiza	EACTDA
Contributor(s):	Sigute Stankeviciute	L3CE (Seconded to EACTDA)
	Eva Skruba	EACTDA

DOCUMENT CONTROL

Version	Date	Author(s)	Change(s)
0.1	02/03/2022	Juan Arraiza (EACTDA)	TOC and initial text
0.2	15/03/2022	Sigute Stankeviciute (L3CE; Seconded to EACTDA)	First version for all sections completed. Requested contributions from key stakeholders.
0.3	25/03/2022	Sigute Stankeviciute (L3CE; Seconded to EACTDA)	Updated with received minor corrections and fixes, and feedback from reviewers.
1.0	28/03/2022	Juan Arraiza (EACTDA)	Final version, approved by EACTDA's Board of the Association and ready to be submitted

Co-funded by
the European Union

LICENCE AGREEMENT

VIII.   THE PARTIES

This agreement is signed on _____ of _____ 202_,

BETWEEN

==[*** NAME OF THE EACTDA MEMBER PARTICIPATING IN THIS COLLABORATION ***]==, a ==[*** TYPE OF ORGANISATION (E.G., COMPANY, UNIVERSITY, RTO) AND REGISTRATION NUMBER ***]==, represented by ==[*** NAME OF THE LEGAL REPRESENTATIVE ***]==, ==[*** POSITION OF THE LEGAL REPRESENTATIVE ***]==, referred to as ==[*** EACTDA MEMBERS'S ACRONYM ***]== or the "**Licensor**", having its principal place of business at ==[*** ADDRESS OF EACTDA MEMBER ***]==.

AND

The European Anti-Cybercrime Technology Development Association, a non-profit organisation registered at Registro General de Asociaciones del País Vasco[32] (registration number AS/G/23156/2020), represented by Juan Arraiza Irujo, Business Manager, hereinafter referred to as EACTDA or the "**Licensee**", having its principal place of business at Paseo Mikeletegi 71 - Planta 3 - local A.1.2, 20009, Donostia/San Sebastian (Gipuzkoa), Spain;

IX.   AGREEMENT

1. Definitions

1.1 In this Agreement:

"Agreement" means this document including any Schedules and any amendments made to it;

"Business Day" means any weekday other than a public holiday in the Basque Country (Spain)[33];

"Business Hours" means the hours of 09:00 to 17:00 CET/CEST on a Business Day;

"Documentation" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the Licensee;

"Effective Date" means the date of execution of this Agreement;

"Intellectual Property Rights" (IPR) means all intellectual property rights anywhere, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade

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[32] https://www.euskadi.eus/registro-asociaciones-pais-vasco/web01-tramite/es/

[33] https://www.euskadi.eus/gobierno-vasco/-/calendario-laboral/

names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, and rights in designs);

"Schedule" means any schedule attached to the main body of this Agreement;

"Software" means the software identified in Part 1 of Schedule 1 (Software Licence Particulars) including object code and source code formats;

"Software Defect" means a defect, error or bug in the Software having an adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any act or omission of the Licensee or any person authorised by the Licensee to use the Software;

(b)   any use of the Software contrary to the Documentation by the Licensee or any person authorised by the Licensee to use the Software;

(c)   a failure of the Licensee to perform or observe any of its obligations in this Agreement; and/or

(d)   an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"Software Specification" means the specification for the Software set out in Part 1 of Schedule 1 (Software Licence Particulars) and in the Documentation, as it may be varied by the written agreement of the parties from time to time; and

"Term" means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2.

2. Term

2.1   This Agreement shall come into force upon the Effective Date.

2.2   This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 10 or any other provision of this Agreement.

3. Supply of Software

3.1   The Licensor shall make the Software available for download by the Licensee during the whole of the period of 10 Business Days following the Effective Date, and shall provide to the Licensee such assistance in relation to the download of the Software as the Licensee may reasonably request.

4. Licence

4.1   The Licensor hereby grants to the Licensee a worldwide, non-exclusive licence to:

(a)   install the Software;

(b)   use the Software;

(c)   create, store and maintain the Software; and

(d)   fix, patch, improve, integrate, update and upgrade the Software, and create new versions of the Software,

        subject to the limitations and prohibitions set out and referred to in this Clause 4.

4.2   The Licensee may sub-license the rights granted in Clause 4.1 to European Union Law Enforcement Agencies and other organisations from the public sector with a role in fighting cybercrime (regardless of these being at European, national, regional, municipal level, or any other level). Any such sub-licence shall automatically terminate upon the termination of the licence in Clause 4.1.

4.3   The licence granted by the Licensor to the Licensee in Clause 4.1 is subject to the limitations regarding sub-licensing rights set out in Part 2 of Schedule 1 (Software Licence Particulars).

4.4   The Software may only be used by the officers and employees of the Licensee, and the officers and employees of the Licensee's agents, subcontractors, customers, clients, suppliers and service providers (subject to the limitations regarding sub-licensing rights set out in Part 2 of Schedule 1 (Software Licence Particulars).

4.5   Save to the extent expressly permitted by this Agreement or required by applicable law on a non-excludable basis, any licence granted under this Clause 4 shall be subject to the following prohibition:

(a)   the Licensee must not sell, resell, rent, lease, or loan the Software to European Union Law Enforcement Agencies and other organisations from the public sector with a role in fighting cybercrime (regardless of these being at European, national, regional, municipal level, or any other level);

4.6   The Licensee shall be responsible for the security of copies of the Software supplied to the Licensee under this Agreement (or created from such copies) and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this Agreement.

5.   No assignment of Intellectual Property Rights

5.1   Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the Licensee, or from the Licensee to the Licensor.

6.   Charges

6.1   The Licensee shall not pay the Charges to the Licensor in accordance with this Agreement.

7.   Warranties

7.1   The Licensor warrants to the Licensee that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.2   The Licensee warrants to the Licensor that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.3   All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

8.   Acknowledgements and warranty limitations

8.1   The Licensee acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

8.2   The Licensee acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be entirely secure.

8.3   The Licensee acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Licensor does not warrant or represent that the Software will be compatible with any other software.

8.4   The Licensee acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Software; and, except to the extent expressly provided otherwise in this Agreement, the Licensor does not warrant or represent that the Software or the use of the Software by the Licensee will not give rise to any legal liability on the part of the Licensee or any other person.

9.   Limitations and exclusions of liability

9.1   Nothing in this Agreement will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law.

9.2   The limitations and exclusions of liability set out in this Clause 9 and elsewhere in this Agreement:

(a)   are subject to Clause 9.1; and

(b)   govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

9.3   Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

9.4   Neither party shall be liable to the other party in respect of any loss of revenue or income.

9.5   Neither party shall be liable to the other party in respect of any loss of use or production.

9.6   Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

9.7   Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software.

9.8   Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

10.   Termination

10.1   The Licensee may terminate this Agreement by giving to the Licensor not less than 30 days' written notice of termination.

10.2   Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)   the other party commits any breach of this Agreement, and the breach is not remediable;

(b)   the other party commits a breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or

(c)   the other party persistently breaches this Agreement (irrespective of whether such breaches collectively constitute a material breach).

10.3   Subject to applicable law, either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)   the other party:

(i)   is dissolved;

(ii)   ceases to conduct all (or substantially all) of its business;

(iii)   is or becomes unable to pay its debts as they fall due;

(iv)   is or becomes insolvent or is declared insolvent; or

(v)   convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b)   an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c)   an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or

(d)   if that other party is an individual:

(i)   that other party dies;

(ii)   as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii)   that other party is the subject of a bankruptcy petition or order.

11.   Effects of termination

11.1   Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 8, 10, 12 and 13.

11.2   Except to the extent expressly provided otherwise in this Agreement, the termination of this Agreement shall not affect the accrued rights of either party.

11.3   For the avoidance of doubt, the licences of the Software in this Agreement shall terminate upon the termination of this Agreement; and, accordingly, the Licensee must immediately cease to use the Software upon the termination of this Agreement.

11.4   Within 20 Business Days following the termination of this Agreement, the Licensee shall:

(a)   return to the Licensor or dispose of as the Licensor may instruct all media in its possession or control containing the Software; and

(b)   irrevocably delete from all computer systems in its possession or control all copies of the Software,

and if the Licensor so requests the Licensee shall procure that a legal representative of the Licensee certifies to the Licensor, in a written document signed by that person and provided to the Licensor within 10 Business Days following the receipt of the Licensor's request, that the Licensee has fully complied with the requirements of this Clause 11.4.

12.   Notices

12.1   Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 12.2):

(a)   delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or

(b)   sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

12.2   The parties' contact details for notices under this Clause 12 are as follows:

(a)   in the case of notices sent by the Licensee to the Licensor,

If using postal mail:

[*** EACTDA MEMBER postal contact details ***].

And if using electronic email: [*** EACTDA MEMBER email contact details ***]

(b)   in the case of notices sent by the Licensor to the Licensee,

If using postal mail:

EACTDA
Parque Científico y Tecnológico de Gipuzkoa
Paseo Mikeletegi 71 - Planta 3 - local A.1.2
20009, Donostia/San Sebastian (Gipuzkoa)
Spain

and if using electronic email: secretariat@eactda.eu

12.3   The addressee and contact details set out in Clause 12.2 may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 12.

13.   General

13.1   No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

13.2   If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

13.3   This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

13.4   Apart from what is established in Clause 4 of this Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

13.5   This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

13.6   Subject to Clause 9.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

13.7   This Agreement shall be governed by and construed in accordance with Spanish law.

13.8   The courts of Donostia / San Sebastian (Spain) shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

14.   Interpretation

14.1   In this Agreement, a reference to a statute or statutory provision includes a reference to:

(a)   that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b)   any subordinate legislation made under that statute or statutory provision.

14.2   The Clause headings do not affect the interpretation of this Agreement.

14.3   References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

14.4   In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

15.   Credit

15.1   This licence agreement document was created using a template from Docular (https://docular.net).

X.   EXECUTION

Co-funded by
the European Union

The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY [*** NAME OF THE EACTDA MEMBER PARTICIPATING IN THIS COLLABORATION ***], duly authorised for and on behalf of the Licensor:

...., on [*** DATE OF SIGNATURE ***]

AND

SIGNED BY Juan Arraiza, duly authorised for and on behalf of the Licensee:

...., on [*** DATE OF SIGNATURE ***]

SCHEDULE 1 (SOFTWARE LICENCE PARTICULARS)

1.   Specification of Software

[*** Specify Software ***]

2.   Software licence

[*** Insert software licence details, in particular the commercial limitations on usage ***]

The Tools4LEAs project

Co-funded by
the European Union

ANNEX III – Licensing-back template

The latest version of the template can be found at EACTDA / Tools4LEAs repository at:

https://vicomtech.box.com/s/1v6est0y4lidj1sp8itf4vhmtdlhsny5

As of the time of submitting this deliverable, the latest version of the template is as follows:

"Licensing-back" licence template

Version:	1.1	
Delivery date:	September 2021	
Dissemination level:	CONFIDENTIAL (only for members of the consortium; including the Commission services)	
Status	FINAL	
Nature:	TEMPLATE	
Main author(s):	Juan Arraiza	EACTDA
Contributor(s):	Nelson Escravana	INOV
	Dorleta García	VICOMTECH
	Sigute Stankeviciute Egidija Versinskiene Evaldas Bruze	L3CE

DOCUMENT CONTROL

Version	Date	Author(s)	Change(s)
0.1	26/08/2021	Juan Arraiza (EACTDA)	TOC and initial text
0.2	27/08/2021	Juan Arraiza (EACTDA)	First version for all sections completed. Requested contributions from EACTDA members and key stakeholders.
0.3	24/09/2021	Juan Arraiza (EACTDA)	Updated with received minor corrections and fixes, and feedback from reviewers.
1.0	29/09/2021	Juan Arraiza (EACTDA)	Final version, approved by EACTDA's Board of the Association and ready to be submitted

1.1	15/03/2022	Juan Arraiza (EACTDA)	Added the text below to Article 13.4: "Apart from what is established in Clause 4 of this Agreement,…"

Licence agreement

[*** DATE (DD/MM/YYY) ***]

[*** Name of the person of contact at the EACTDA MEMBER***]

[*** Contact details of the EACTDA MEMBER ***]

The [*** EACTDA board / General Assembly **] is happy to inform that it has decided to offer your organisation [*** EACTDA MEMBER ***] a non-exclusive licence of the [*** ASSET-TO-BE-LICENSED ***] that was developed total or partially under the collaboration agreement [*** COLLABORATION AGREEMENT ID/REF-NUMBER ***] signed on [*** DATE OF SIGNATURE ***] between EACTDA and your organisation [*** EACTDA MEMBER ***].

Below we present the agreement template that details the terms and conditions of the non-exclusive licence that is being offered to [*** EACTDA MEMBER ***].

Should you agree with these terms and conditions, please fill-in the missing information, sign it, and send it back to us at the following address:

1) If digitally signed, to: secretariat@eactda.eu
2) If manually signed, send 2 signed copies to:
   EACTDA
   Parque Científico y Tecnológico de Gipuzkoa
   Paseo Mikeletegi 71 – Planta 3 – local A.1.2
   20009, Donostia/San Sebastian (Gipuzkoa)
   Spain

Once received, EACTDA will counter-sign and send the final version of the fully-signed licence back to you.

Your sincerely,
Dr Juan Arraiza
Business Manager at EACTDA

LICENCE AGREEMENT

XI.   THE PARTIES

This agreement is signed on _____ of _____ 202_,

BETWEEN

The European Anti-Cybercrime Technology Development Association, a non-profit organisation registered at Registro General de Asociaciones del País Vasco[34] (registration number AS/G/23156/2020), represented by Juan Arraiza Irujo, Business Manager, hereinafter referred to as EACTDA or the "**Licensor**", having its principal place of business at Paseo Mikeletegi 71 - Planta 3 - local A.1.2, 20009, Donostia/San Sebastian (Gipuzkoa), Spain;

AND

[*** NAME OF THE EACTDA MEMBER PARTICIPATING IN THIS COLLABORATION ***], a [*** TYPE OF ORGANISATION (E.G., COMPANY, UNIVERSITY, RTO) AND REGISTRATION NUMBER ***], represented by [*** NAME OF THE LEGAL REPRESENTATIVE ***], [*** POSITION OF THE LEGAL REPRESENTATIVE ***], referred to as [*** EACTDA MEMBERS'S ACRONYM ***] or the "**Licensee**", having its principal place of business at [*** ADDRESS OF EACTDA MEMBER ***].

XII.   AGREEMENT

1. Definitions

1.1 In this Agreement:

"Agreement" means this document including any Schedules and any amendments made to it;

"Business Day" means any weekday other than a public holiday in the Basque Country (Spain)[35];

"Business Hours" means the hours of 09:00 to 17:00 CET/CEST on a Business Day;

"Documentation" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the Licensee;

"Effective Date" means the date of execution of this Agreement;

"Intellectual Property Rights" means all intellectual property rights anywhere, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service

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[34] https://www.euskadi.eus/registro-asociaciones-pais-vasco/web01-tramite/es/

[35] https://www.euskadi.eus/gobierno-vasco/-/calendario-laboral/

marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Minimum Term" means, in respect of this Agreement, the period of 12 months beginning on the Effective Date;

"Schedule" means any schedule attached to the main body of this Agreement;

"Software" means the software identified in Part 1 of Schedule 1 (Software Licence Particulars) including object code and source code formats;

"Software Defect" means a defect, error or bug in the Software having an adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any act or omission of the Licensee or any person authorised by the Licensee to use the Software;

(b)   any use of the Software contrary to the Documentation by the Licensee or any person authorised by the Licensee to use the Software;

(c)   a failure of the Licensee to perform or observe any of its obligations in this Agreement; and/or

(d)   an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"Software Specification" means the specification for the Software set out in Part 1 of Schedule 1 (Software Licence Particulars) and in the Documentation, as it may be varied by the written agreement of the parties from time to time; and

"Term" means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2.

2. Term

2.1   This Agreement shall come into force upon the Effective Date.

2.2   This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 10 or any other provision of this Agreement.

3. Supply of Software

3.1   The Licensor shall make the Software available for download by the Licensee during the whole of the period of 10 Business Days following the Effective Date, and shall provide to the Licensee such assistance in relation to the download of the Software as the Licensee may reasonably request.

4. Licence

4.1   The Licensor hereby grants to the Licensee a worldwide, non-exclusive licence to:

(a)   install the Software;

(b)   use the Software;

(c)   create, store and maintain the Software; and

(d)   fix, patch, improve, integrate, update and upgrade the Software, and create new versions of the Software,

       subject to the limitations and prohibitions set out and referred to in this Clause 4.

4.2   The Licensee may sub-license the rights granted in Clause 4.1 to any third party. Any such sub-licence shall automatically terminate upon the termination of the licence in Clause 4.1.

4.3   The licence granted by the Licensor to the Licensee in Clause 4.1 is subject to the limitations regarding sub-licensing rights set out in Part 2 of Schedule 1 (Software Licence Particulars).

4.4   The Software may only be used by the officers and employees of the Licensee, and the officers and employees of the Licensee's agents, subcontractors, customers, clients, suppliers and service providers.

4.5   Save to the extent expressly permitted by this Agreement or required by applicable law on a non-excludable basis, any licence granted under this Clause 4 shall be subject to the following prohibition:

(a)   the Licensee must not sell, resell, rent, lease, or loan the Software to organisations from the public security field that are part of the public sector of the European Union (regardless of these being at European, national, regional, municipal level, or any other level);

4.6   The Licensee shall be responsible for the security of copies of the Software supplied to the Licensee under this Agreement (or created from such copies) and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this Agreement.

5.   No assignment of Intellectual Property Rights

5.1   Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the Licensee, or from the Licensee to the Licensor.

6.   Charges

6.1   The Licensee shall not pay the Charges to the Licensor in accordance with this Agreement.

7.   Warranties

7.1   The Licensor warrants to the Licensee that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.2   The Licensee warrants to the Licensor that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.3   All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

8.   Acknowledgements and warranty limitations

8.1   The Licensee acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

8.2   The Licensee acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be entirely secure.

8.3   The Licensee acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Licensor does not warrant or represent that the Software will be compatible with any other software.

8.4   The Licensee acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Software; and, except to the extent expressly provided otherwise in this Agreement, the Licensor does not warrant or represent that the Software or the use of the Software by the Licensee will not give rise to any legal liability on the part of the Licensee or any other person.

9.   Limitations and exclusions of liability

9.1   Nothing in this Agreement will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law.

9.2   The limitations and exclusions of liability set out in this Clause 9 and elsewhere in this Agreement:

(a)   are subject to Clause 9.1; and

(b)   govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

9.3   Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

9.4   Neither party shall be liable to the other party in respect of any loss of revenue or income.

9.5   Neither party shall be liable to the other party in respect of any loss of use or production.

9.6   Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

9.7   Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software.

9.8   Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

10.   Termination

10.1   The Licensee may terminate this Agreement by giving to the Licensor not less than 30 days' written notice of termination.

10.2   Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)   the other party commits any breach of this Agreement, and the breach is not remediable;

(b)   the other party commits a breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or

(c)   the other party persistently breaches this Agreement (irrespective of whether such breaches collectively constitute a material breach).

10.3   Subject to applicable law, either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)   the other party:

(i)   is dissolved;

(ii)   ceases to conduct all (or substantially all) of its business;

(iii)   is or becomes unable to pay its debts as they fall due;

(iv)   is or becomes insolvent or is declared insolvent; or

(v)   convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b)   an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c)   an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or

(d)   if that other party is an individual:

(i)   that other party dies;

(ii)   as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii)   that other party is the subject of a bankruptcy petition or order.

11.   Effects of termination

11.1   Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 8, 10, 12 and 13.

11.2   Except to the extent expressly provided otherwise in this Agreement, the termination of this Agreement shall not affect the accrued rights of either party.

11.3   For the avoidance of doubt, the licences of the Software in this Agreement shall terminate upon the termination of this Agreement; and, accordingly, the Licensee must immediately cease to use the Software upon the termination of this Agreement.

11.4   Within 20 Business Days following the termination of this Agreement, the Licensee shall:

(a)   return to the Licensor or dispose of as the Licensor may instruct all media in its possession or control containing the Software; and

(b)   irrevocably delete from all computer systems in its possession or control all copies of the Software,

and if the Licensor so requests the Licensee shall procure that a legal representative of the Licensee certifies to the Licensor, in a written document signed by that person and provided to the Licensor within 10 Business Days following the receipt of the Licensor's request, that the Licensee has fully complied with the requirements of this Clause 11.4.

12.   Notices

12.1   Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 12.2):

(a)   delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or

(b)   sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

12.2   The parties' contact details for notices under this Clause 12 are as follows:

(a)   in the case of notices sent by the Licensee to the Licensor,

If using postal mail:

EACTDA
Parque Científico y Tecnológico de Gipuzkoa
Paseo Mikeletegi 71 - Planta 3 - local A.1.2
20009, Donostia/San Sebastian (Gipuzkoa)
Spain

and if using electronic email: secretariat@eactda.eu

(b)   in the case of notices sent by the Licensor to the Licensee,

If using postal mail:

[*** EACTDA MEMBER postal contact details ***].

And if using electronic email: [*** EACTDA MEMBER email contact details ***]

12.3   The addressee and contact details set out in Clause 12.2 may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 12.

13.   General

13.1   No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

13.2   If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

13.3   This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

13.4   Apart from what is established in Clause 4 of this Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

13.5   This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

13.6   Subject to Clause 9.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

13.7   This Agreement shall be governed by and construed in accordance with Spanish law.

13.8   The courts of Donostia / San Sebastian (Spain) shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

14.   Interpretation

14.1   In this Agreement, a reference to a statute or statutory provision includes a reference to:

(a)   that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b)   any subordinate legislation made under that statute or statutory provision.

14.2   The Clause headings do not affect the interpretation of this Agreement.

14.3   References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

14.4   In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

15.   Credit

15.1   This licence agreement document was created using a template from Docular (https://docular.net).

XIII.   EXECUTION

The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY Juan Arraiza, duly authorised for and on behalf of the Licensor:

...., on [*** DATE OF SIGNATURE ***]

AND

SIGNED BY [*** NAME OF THE EACTDA MEMBER PARTICIPATING IN THIS COLLABORATION ***], duly authorised for and on behalf of the Licensee:

...., on [*** DATE OF SIGNATURE ***]

SCHEDULE 1 (SOFTWARE LICENCE PARTICULARS)

1.   Specification of Software

[*** Specify Software ***]

2.   Software licence

[*** Insert software licence details, in particular the commercial limitations on usage ***]

ANNEX IV – Licensing-out template

The latest version of the template can be found at EACTDA / Tools4LEAs repository at:

https://vicomtech.box.com/s/1v6est0y4lidj1sp8itf4vhmtdlhsny5

As of the time of submitting this deliverable, the latest version of the template is as follows:

"Licensing-out" licence template

Version:	1.0	
Delivery date:	March 2022	
Dissemination level:	CONFIDENTIAL (only for members of the consortium; including the Commission services)	
Status	FINAL	
Nature:	TEMPLATE	
Main author(s):	Juan Arraiza	EACTDA
Contributor(s):	Sigute Stankeviciute Egidija Versinskiene Evaldas Bruze	L3CE (seconded to EACTDA)
	Eva Skruba	

DOCUMENT CONTROL

Version	Date	Author(s)	Change(s)
0.1	26/08/2021	Juan Arraiza (EACTDA)	TOC and initial text
0.2	24/03/2022	Sigute Stankeviciute (L3CE, seconded to EACTDA)	First version for all sections completed. Requested contributions from EACTDA members and key stakeholders.
0.3	28/03/2022	Sigute Stankeviciute (L3CE, seconded to EACTDA) Juan Arraiza (EACTDA)	Updated with received minor corrections and fixes, and feedback from reviewers.
1.0	28/03/2022	Juan Arraiza (EACTDA)	Final version, ready to be submitted

Co-funded by the European Union

LICENCE AGREEMENT

I.   THE PARTIES

This agreement is signed on _____ of _____ 202_,

BETWEEN

The European Anti-Cybercrime Technology Development Association, a non-profit organisation registered at Registro General de Asociaciones del País Vasco[36] (registration number AS/G/23156/2020), represented by Juan Arraiza Irujo, Business Manager, hereinafter referred to as EACTDA or the "**Licensor**", having its principal place of business at Paseo Mikeletegi 71 - Planta 3 - local A.1.2, 20009, Donostia/San Sebastian (Gipuzkoa), Spain;

AND

[*** NAME OF INSTITUTION***], a [*** TYPE OF ORGANISATION (E.G., LAWENFORCEMENT ***], represented by [*** NAME OF THE LEGAL REPRESENTATIVE ***], [*** POSITION OF THE LEGAL REPRESENTATIVE ***], referred to as [***ACRONYM ***] or the "**Licensee**", having its principal place of business at [*** ADDRESS ***].

II.   AGREEMENT

1. Definitions

1.1 In this Agreement:

"Agreement" means this document including any Schedules and any amendments made to it;

"Business Day" means any weekday other than a public holiday in the Basque Country (Spain)[37];

"Business Hours" means the hours of 09:00 to 17:00 CET/CEST on a Business Day;

"Documentation" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the Licensee;

"Effective Date" means the date of execution of this Agreement;

"Intellectual Property Rights" means all intellectual property rights anywhere, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

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[36] https://www.euskadi.eus/registro-asociaciones-pais-vasco/web01-tramite/es/

[37] https://www.euskadi.eus/gobierno-vasco/-/calendario-laboral/

"Minimum Term" means, in respect of this Agreement, the period of 12 months beginning on the Effective Date;

"Schedule" means any schedule attached to the main body of this Agreement;

"Software" means the software identified in Part 1 of Schedule 1 (Software Licence Particulars) including object code and source code formats;

"Software Defect" means a defect, error or bug in the Software having an adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any act or omission of the Licensee or any person authorised by the Licensee to use the Software;

(b)   any use of the Software contrary to the Documentation by the Licensee or any person authorised by the Licensee to use the Software;

(c)   a failure of the Licensee to perform or observe any of its obligations in this Agreement; and/or

(d)   an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"Software Specification" means the specification for the Software set out in Part 1 of Schedule 1 (Software Licence Particulars) and in the Documentation, as it may be varied by the written agreement of the parties from time to time; and

"Term" means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2.

2. Term

2.1   This Agreement shall come into force upon the Effective Date.

2.2   This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 10 or any other provision of this Agreement.

3. Supply of Software

3.1   The Licensor shall make the Software available for download by the Licensee, and shall provide to the Licensee such assistance in relation to the download of the Software as the Licensee may reasonably request.

4. Licence

4.1   The Licensor hereby grants to the Licensee a worldwide, non-exclusive licence to:

(a)   install the Software in its devices;

(b)   use the Software for non-commercial purposes;

(c)   create, store and maintain the Software; and

(d)   fix, patch, improve, integrate, update and upgrade the Software, and create new versions of the Software,

        subject to the limitations and prohibitions set out and referred to in this Clause 4.

4.2   This Agreement does not include the right to sublicense.

4.3   The Software may only be used by the officers and employees of the Licensee only in alignment with human rights and national regulations ensuring compliance.

4.4   The Licensee shall request and obtain written permission from the Licensor prior to giving access to the Software to the officers and employees of the Licensee's agents and subcontractors.

4.5   The Licensee must not sell, resell, rent, lease, or loan the Software.

4.6   The Licensee shall be responsible for the security of copies of the Software supplied to the Licensee under this Agreement (or created from such copies) and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this Agreement.

5.   Ownership of Intellectual Property Rights

5.1   The intellectual property rights to improvements or amendments to Software or it's object or source code belongs to the Licensee.

5.2   The Licensee shall grand a non exclusive, non revocable world-wide license to any improvements or amendments to Software or it's object or source code to the Licensor with a right to sublicense it under the same or analogous terms to this licence.

6.   Charges

6.1   The Licensee shall not pay the Charges to the Licensor in accordance with this Agreement.

7.   Warranties

7.1   The Licensor warrants to the Licensee that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.2   The Licensee warrants to the Licensor that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

7.3   All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

8.   Acknowledgements and warranty limitations

8.1   Despite the efforts made by the Licensor to provide the highest quality possible, the Licensee acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

8.2   Despite the efforts made by the Licensor to provide the highest security quality possible, the Licensee acknowledges that complex software might not be entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be entirely secure.

8.3   The Licensee acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Licensor does not warrant or represent that the Software will be compatible with any other software.

8.4   The Licensee acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Software; and, except to the extent expressly provided otherwise in this Agreement, the Licensor does not warrant or represent that the Software or the use of the Software by the Licensee will not give rise to any legal liability on the part of the Licensee or any other person.

9.   Limitations and exclusions of liability

9.1   Nothing in this Agreement will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law.

9.2   The limitations and exclusions of liability set out in this Clause 9 and elsewhere in this Agreement:

(a)   are subject to Clause 9.1; and

(b)	govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

9.3	Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

9.4	Neither party shall be liable to the other party in respect of any loss of revenue or income.

9.5	Neither party shall be liable to the other party in respect of any loss of use or production.

9.6	Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

9.7	Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software.

9.8	Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

9.9	Neither party will be liable to the other party with respect to any breach of legal obligations in matters such as, for example, protection of personal data and/or privacy.

10.	Termination

10.1	The Licensee may terminate this Agreement by giving to the Licensor not less than 30 days' written notice of termination.

10.2	Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)	the other party commits any breach of this Agreement, and the breach is not remediable;

(b)	the other party commits a breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or

(c)	the other party persistently breaches this Agreement (irrespective of whether such breaches collectively constitute a material breach).

10.3	Subject to applicable law, either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)	the other party:

(i)	is dissolved;

(ii)	ceases to conduct all (or substantially all) of its business;

(iii)	is or becomes unable to pay its debts as they fall due;

(iv)	is or becomes insolvent or is declared insolvent; or

(v)	convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

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(b)   an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c)   an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or

(d)   if that other party is an individual:

(i)   that other party dies;

(ii)   as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii)   that other party is the subject of a bankruptcy petition or order.

11.   Effects of termination

11.1   Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 8, 10, 12 and 13.

11.2   Except to the extent expressly provided otherwise in this Agreement, the termination of this Agreement shall not affect the accrued rights of either party.

11.3   For the avoidance of doubt, the licences of the Software in this Agreement shall terminate upon the termination of this Agreement; and, accordingly, the Licensee must immediately cease to use the Software upon the termination of this Agreement.

11.4   Within 30 Business Days following the termination of this Agreement, the Licensee shall:

(a)   return to the Licensor or dispose of as the Licensor may instruct all media in its possession or control containing the Software; and

(b)   irrevocably delete from all computer systems in its possession or control all copies of the Software, and if the Licensor so requests the Licensee shall procure that a legal representative of the Licensee certifies to the Licensor, in a written document signed by that person and provided to the Licensor within 20 Business Days following the receipt of the Licensor's request, that the Licensee has fully complied with the requirements of this Clause 11.4.

12.   Notices

12.1   Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 12.2):

(a)   delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or

(b)   sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

12.2   The parties' contact details for notices under this Clause 12 are as follows:

(a)   in the case of notices sent by the Licensee to the Licensor,

If using postal mail:

> EACTDA
> Parque Científico y Tecnológico de Gipuzkoa
> Paseo Mikeletegi 71 - Planta 3 - local A.1.2
> 20009, Donostia/San Sebastian (Gipuzkoa)
> Spain

and if using electronic email: secretariat@eactda.eu

(b)   in the case of notices sent by the Licensor to the Licensee,

If using postal mail:

[*** EACTDA MEMBER postal contact details ***].

And if using electronic email: [*** EACTDA MEMBER email contact details ***]

12.3   The addressee and contact details set out in Clause 12.2 may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 12.

13.   General

13.1   No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

13.2   If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

13.3   This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

13.4   Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

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13.5   This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

13.6   Subject to Clause 9.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

13.7   This Agreement shall be governed by and construed in accordance with Spanish law.

13.8   The courts of Donostia / San Sebastian (Spain) shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

14.   Interpretation

14.1   In this Agreement, a reference to a statute or statutory provision includes a reference to:

(a)   that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b)   any subordinate legislation made under that statute or statutory provision.

14.2   The Clause headings do not affect the interpretation of this Agreement.

14.3   References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

14.4   In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

15.   Credit

15.1   This license agreement document was created using a template from Docular (https://docular.net).

        III.   EXECUTION

The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY Juan Arraiza, duly authorised for and on behalf of the Licensor:

...., on [*** DATE OF SIGNATURE ***]

AND

SIGNED BY [*** NAME OF THE EACTDA MEMBER PARTICIPATING IN THIS COLLABORATION ***], duly authorised for and on behalf of the Licensee:

...., on [*** DATE OF SIGNATURE ***]

SCHEDULE 1 (SOFTWARE LICENCE PARTICULARS)

1.   Specification of Software

[*** Specify Software ***]

2.   Software licence

[*** Insert software licence details, in particular the commercial limitations on usage ***]

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