



EUROPEAN COMMISSION


Executive Agency for Small and Medium-sized Enterprises (EASME)

Director

Version 5 February 2014

EASME MODEL GRANT AGREEMENT FOR THE COSME PROGRAMME¹ (COSME MGA — MULTI)

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- For options [*in italics, in square brackets*]: the applicable option must be chosen in the IT system. Options not chosen will automatically either not appear or appear as 'not applicable'. Options chosen will appear *in italics* without brackets and without the Option title (to allow beneficiaries to easily spot that a specific rule applies).
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GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

This Agreement ('the Agreement') is **between** the following parties:

on the one part,

the **Executive Agency for Small and Medium-sized Enterprises (EASME)**, ('the Agency'), under the powers delegated by the European Commission ('the Commission'), represented for

¹ Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC.

the purposes of signature of this Agreement by Mr. Patrick LAMBERT, Director, or his duly authorised representative²,

and

on the other part,

1. ‘the coordinator’:

[full official name (short name)][legal form], [official registration No], established in [official address in full], [VAT number], represented for the purposes of signing the Agreement by [function, forename and surname]

and the following other beneficiaries, if they sign their ‘Accession Form’ (see Annex 3 and Article 40):

2. [full official name (short name)][legal form], [official registration No], established in [official address in full], [VAT number],

[same for each beneficiary]

[OPTION if the JRC is a beneficiary: and . the Joint Research Centre (JRC) established in [official address in full], if it signs the administrative arrangement (see Annex 3b)]³.

Unless otherwise specified, references to ‘beneficiary’ or ‘beneficiaries’ include the coordinator *[OPTION if the JRC participates: and the Joint Research Centre (JRC)]*.

The parties referred to above have agreed to enter into the Agreement under the terms and conditions below.

By signing the Agreement or the Accession Form *[OPTION if the JRC is a beneficiary: or the administrative arrangement]*, the beneficiaries accept the grant and agree to implement the action under their own responsibility and in accordance with the Agreement, with all the obligations and conditions it sets out.

The Agreement is composed of:

Terms and Conditions

Annex 1 Description of the action

Annex 2 Estimated budget for the action

² The person representing Commission/Agency must be an authorising officer (by delegation or sub-delegation) designated in accordance with document 60008 of 22.02.2001 ‘*Mise en place de la Charte des ordonnateurs*’.

³ Text in italics shows the options of the Model Grant Agreement that are applicable to this Agreement.

[Option for Erasmus young entrepreneurs: Annex 2a Additional information on the estimated budget]

Annex 3 Accession Forms

[OPTION if the JRC participates: Annex 3b Administrative arrangement]

Annex 4 Model for the financial statements

Annex 5 Model for the certificate on the financial statements

TERMS AND CONDITIONS

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CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT OF THE AGREEMENT

This Agreement sets out the rights and obligations and the terms and conditions applicable to the grant awarded to the beneficiaries for implementing the action set out in Chapter 2.

CHAPTER 2 ACTION

ARTICLE 2 — ACTION TO BE IMPLEMENTED

The grant is awarded for the action entitled [insert title of the action] — [insert acronym] ('**action**'), as described in Annex 1.

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The duration of the action will be [insert number] months as of [OPTION by default: the first day of the month following the date the Agreement enters into force (see Article 42)] [OPTION if needed for the action: [insert date]⁴] ('**starting date of the action**').

⁴ This date must be the first day of a month and it must be later than the date of entry into force of the agreement, unless authorised otherwise by the authorising officer, if the applicant can demonstrate the need to start the action before the entry into force of the grant agreement or the need to start the action on another

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

4.1 Estimated budget

The ‘**estimated budget**’ for the action is set out in Annex 2.

It contains the estimated eligible costs and the forms of costs, broken down by beneficiary [(and affiliated entity)] and budget category (see Articles 5, 6 [, 11] and 11a).

4.2 Budget transfers

The estimated budget breakdown indicated in Annex 2 may be adjusted by transfers of amounts between beneficiaries or between budget categories (or both). This does not require an amendment according to Article 39, if the action is implemented as described in Annex 1.

However, the beneficiaries may not add costs relating to subcontracts not provided for in Annex 1, unless such additional subcontracts are approved by an amendment or in accordance with Article 10.

CHAPTER 3 GRANT

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS

5.1 Maximum grant amount

The ‘**maximum grant amount**’ is EUR [insert amount (insert amount in words)].

5.2 Form of grant, reimbursement rates and forms of costs

The grant reimburses [...] % of the action’s eligible costs (see Article 6) (‘**reimbursement of eligible costs grant**’) (see Annex 2).

The estimated eligible costs of the action are EUR [insert amount (insert amount in words)].

Eligible costs (see Article 6) must be declared under the following forms (‘**forms of costs**’ or ‘**cost forms**’):

- (a) for **direct personnel costs**: as actually incurred costs (‘**actual costs**’);
- (b) for **direct costs of subcontracting**: as actually incurred costs (**actual costs**);
- (c) for **other direct costs**: as actually incurred costs (**actual costs**);

day than the first day of the month. In any case, the starting date should not be earlier than the date of the submission of the grant application (Article 130 FR).

- (d) for **direct costs of providing financial support to third parties**: *[OPTION for Erasmus Young Entrepreneurs (to be used if Article 11a applies): on the basis of the amount(s) per unit set out in Annex 2a ('unit costs');][OPTION: not applicable;]*
- (e) for **indirect costs**: on the basis of a flat-rate applied as set out in Article 6.2.Point E ('flat-rate costs').

5.3 Final grant amount — Calculation

The '**final grant amount**' depends on the actual extent to which the action is implemented in accordance with the Agreement's terms and conditions.

This amount is calculated by the Agency — when the payment of the balance is made — in the following steps:

Step 1 — Application of the reimbursement rate to the eligible costs

Step 2 — Limit to the maximum grant amount

Step 3 — Reduction due to the no-profit rule

Step 4 — Reduction due to improper implementation or breach of other obligations

5.3.1 Step 1 — Application of the reimbursement rate to the eligible costs

The reimbursement rate (see Article 5.2) is applied to the eligible costs (actual costs, unit costs (if any) and flat-rate costs; see Article 6) declared by the beneficiaries *[and affiliated entities]* (see Article 15) and approved by the Agency (see Article 16).

5.3.2 Step 2 — Limit to the maximum grant amount

If the amount obtained following Step 1 is higher than the maximum grant amount set out in Article 5.1, it will be limited to the latter.

5.3.3 Step 3 — Reduction due to the no-profit rule

The grant must not produce a profit.

'**Profit**' means the surplus of the amount obtained following Steps 1 and 2 plus the action's total receipts, over the action's total eligible costs.

The '**action's total eligible costs**' are the consolidated total eligible costs approved by the Agency.

The '**action's total receipts**' are the consolidated total receipts generated during its duration (see Article 3).

The following are considered **receipts**:

- (a) income generated by the action;
- (b) financial contributions given by third parties to the beneficiary [*or to an affiliated entity*], specifically to be used for costs that are eligible under the action.

The following are however **not** considered receipts:

- (a) financial contributions by third parties, if they may be used to cover costs other than the eligible costs (see Article 6);
- (b) financial contributions by third parties with no obligation to repay any amount unused at the end of the period set out in Article 3.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the eligible actual costs approved by the Agency (as compared to the amount calculated following Steps 1 and 2).

5.3.4 Step 4 — Reduction due to improper implementation or breach of other obligations — Reduced grant amount — Calculation

If the grant is reduced (see Article 27), the Agency will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the action or to the seriousness of the breach of obligations in accordance with Article 27.2) from the maximum grant amount set out in Article 5.1.

The final grant amount will be the lower of the following two:

- the amount obtained following Steps 1 to 3 or
- the reduced grant amount following Step 4.

5.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 17) — the Agency rejects costs (see Article 26) or reduces the grant (see Article 27), it will calculate the '**revised final grant amount**' for the action.

This amount is calculated by the Agency on the basis of the findings, as follows:

- in case of **rejection of costs**: by applying the reimbursement rate to the *revised* eligible costs approved by the Agency for the action, limiting it to the maximum grant amount and making a reduction if there is a profit (see Article 5.3);
- in case of **reduction of the grant**: by deducting the amount of the reduction (calculated in proportion to the improper implementation of the action or to the

seriousness of the breach of obligations in accordance with Article 27.2) from the maximum grant amount set out in Article 5.1.

In case of **rejection of costs and reduction of the grant**, the revised final grant amount for the action will be the lower of the two amounts above.

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

‘**Eligible costs**’ are costs that meet the following criteria:

(a) for **actual costs**:

- (i) they must be actually incurred by the beneficiary;
- (ii) they must be incurred in the period set out in Article 3, with the exception of costs relating to the submission of the periodic report for the last reporting period and the final report (see Article 15);
- (iii) they must be indicated in the estimated budget set out in Annex 2;
- (iv) they must be incurred in connection with the action as described in Annex 1 and necessary for its implementation;
- (v) they must be identifiable and verifiable, in particular recorded in the beneficiary’s accounts in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary’s usual cost accounting practices;
- (vi) they must comply with the applicable national law on taxes, labour and social security, and
- (vii) they must be reasonable, justified and must comply with the principle of sound financial management, in particular regarding economy and efficiency;

(b) for **unit costs**: *[OPTION for Erasmus Young Entrepreneurs (to be used if Article 11a applies)]*:

(i) *they must be calculated as follows:*

{amounts per unit set out in Annex 2a

multiplied by

the number of actual units, meaning the number of new entrepreneurs};

(ii) *the number of actual units must comply with the following conditions:*

- (iii) *the units must be actually used or produced in the period set out in Article 3;*
- (iv) *the units must be necessary for implementing the action or produced by it, and*
- (v) *the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 13);]*

[OPTION: not applicable;]

(c) for **flat-rate costs**:

- (i) they must be calculated by applying the flat-rate set out in Annex 2, and
- (ii) the costs (actual costs) to which the flat-rate is applied must comply with the conditions for eligibility set out in this Article.

6.2 Specific conditions for costs to be eligible

Costs are eligible if they comply with the general conditions (see above) and the specific conditions set out below, for each of the following budget categories:

- A. direct personnel costs;
- B. direct costs of subcontracting;
- C. other direct costs;
- D. *[OPTION for Erasmus Young Entrepreneurs (to be used if Article 11a) applies: direct costs of providing financial support to third parties;]* *[OPTION: not applicable;]*
- E. indirect costs.

‘Direct costs’ are costs that are directly linked to the action implementation and can therefore be attributed to it directly. They must not include any indirect costs (see Point D below).

‘Indirect costs’ are costs that are not directly linked to the action implementation and therefore cannot be attributed directly to it.

A. Direct personnel costs

Types of eligible personnel costs

A.1 Personnel costs are eligible if they are related to personnel working for the beneficiary under an employment contract (or equivalent appointing act) and assigned to the action (**‘costs for employees (or equivalent)’**). They must be limited to salaries (including during parental leave), social security contributions, taxes and other costs included in the **remuneration**, if they arise from national law or the employment contract (or equivalent appointing act).

They may also include **additional remuneration** for personnel assigned to the action (including payments on the basis of supplementary contracts regardless of their nature), if:

- (a) it is part of the beneficiary's usual remuneration practices and is paid in a consistent manner whenever the same kind of work or expertise is required;
- (b) the criteria used to calculate the supplementary payments are objective and generally applied by the beneficiary, regardless of the source of funding used.

A.2 The **costs for natural persons working under a direct contract** with the beneficiary other than an employment contract or **seconded by a third party against payment** are eligible personnel costs, if:

- (a) the person works under the beneficiary's instructions and, unless otherwise agreed with the beneficiary, on the beneficiary's premises;
- (b) the result of the work carried out belongs to the beneficiary, and
- (c) the costs are not significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

Calculation

Personnel costs must be calculated by the beneficiaries as follows:

{hourly rate
multiplied by
number of actual hours worked on the action}.

The number of actual hours declared for a person must be identifiable and verifiable (see Article 13).

The total number of hours declared in EU or Euratom grants, for a person for a year, cannot be higher than the annual productive hours used for the calculations of the hourly rate. Therefore, the maximum number of hours that can be declared for the grant are:

{number of annual productive hours for the year (see below)
minus
total number of hours declared by the beneficiary, for that person for that year, for other EU or Euratom grants}.

The '**hourly rate**' is the amount calculated as follows:

{actual annual personnel costs for the person
divided by
number of annual productive hours}.

The beneficiaries must use the annual personnel costs and the number of annual productive hours for each financial year covered by the reporting period concerned. If a financial year is not closed at the end of the reporting period, the beneficiaries must use the hourly rate of the last closed financial year available.

For the ‘number of annual productive hours’, the beneficiaries may choose one of the following:

- (i) ‘fixed number of hours’: 1 720 hours for persons working full time (or corresponding pro-rata for persons not working full time);
- (ii) ‘individual annual productive hours’: the total number of hours worked by the person in the year for the beneficiary, calculated as follows:

{annual workable hours of the person (according to the employment contract, applicable collective labour agreement or national law)

plus

overtime worked

minus

absences (such as sick leave and special leave)).

‘Annual workable hours’ means the period during which the personnel must be working, at the employer’s disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation.

If the contract (or applicable collective labour agreement or national working time legislation) does not allow to determine the annual workable hours, this option cannot be used;

- (iii) ‘standard annual productive hours’: the standard number of annual hours generally applied by the beneficiary for its personnel in accordance with its usual cost accounting practices. This number must be at least 90% of the ‘standard annual workable hours’.

If there is no applicable reference for the standard annual workable hours, this option cannot be used.

For all options, the actual time spent on **parental leave** by a person assigned to the action may be deducted from the number of annual productive hours.

B. Direct costs of subcontracting (including related duties, taxes and charges, such as non-deductible value added tax (VAT) paid by beneficiaries that are not public bodies acting as public authority) are eligible if the conditions in Article 10 are met.

C. Other direct costs

C.1 Travel costs and related subsistence allowances (including related duties, taxes and charges, such as non-deductible value added tax (VAT) paid by beneficiaries that are not public bodies acting as public authority) are eligible if they are in line with the beneficiary's usual practices on travel.

C.2 The depreciation costs of equipment, infrastructure or other assets (new or second-hand) as recorded in the beneficiary's accounts are eligible, if they were purchased in accordance with Article 9 and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

The **costs of renting or leasing** equipment, infrastructure or other assets (including related duties, taxes and charges, such as non-deductible value added tax (VAT) paid by beneficiaries that are not public bodies acting as public authority) are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

The only portion of the costs that will be taken into account is that which corresponds to the duration of the action and rate of actual use for the purposes of the action.

C.3 Costs of other goods and services (including related duties, taxes and charges, such as non-deductible value added tax (VAT) paid by beneficiaries that are not public bodies acting as public authority) are eligible, if they are purchased specifically for the action and in accordance with Article 9.

Such goods and services include, for instance, consumables and supplies, dissemination, protection of results, certificates on the financial statements (if they are required by the Agreement), translations and publications.

D. Direct costs of providing financial support to third parties [*OPTION for Erasmus Young Entrepreneurs (to be used if Article 11a applies): are eligible if the conditions set out in Article 11a are met.*]

[*OPTION: Not applicable*]

E. Indirect costs

Indirect costs are eligible if they are declared on the basis of the flat-rate of 7% of the eligible direct costs (see Article 5.2 and Points A to C above).

Beneficiaries receiving an operating grant⁵ financed by the EU or Euratom budget cannot declare indirect costs for the period covered by the operating grant.

⁵ For the definition, see Article 121(1)(b) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 218, 26.10.2012, p.1) ('**Financial Regulation No 966/2012**): '**operating grant**' means direct financial contribution, by way of donation, from the budget in order to finance the functioning of a body which pursues an aim of general EU interest or has an objective forming part of and supporting an EU policy.

6.3 Conditions for costs of affiliated entities to be eligible

[OPTION to be used if Article 11 applies: Costs incurred by affiliated entities are eligible if they fulfil — mutatis mutandis — the general and specific conditions for eligibility set out in this Article (Article 6.1 and 6.2) and Article 11.]

[OPTION: Not applicable]

6.4 Ineligible costs

‘Ineligible costs’ are:

- (a) costs that do not comply with the conditions set out above (Article 6.1 to 6.3), in particular:
 - (i) costs related to return on capital;
 - (ii) debt and debt service charges;
 - (iii) provisions for future losses or debts;
 - (iv) interest owed;
 - (v) doubtful debts;
 - (vi) currency exchange losses;
 - (vii) bank costs charged by the beneficiary’s bank for transfers from the Agency;
 - (viii) excessive or reckless expenditure;
 - (ix) deductible VAT;
 - (x) costs incurred during suspension of the implementation of the action (see Article 33);
 - (xi) in-kind contributions provided by third parties;
- (b) costs declared under another EU or Euratom grant (including grants awarded by a Member State and financed by the EU or Euratom budget and grants awarded by bodies other than the Agency for the purpose of implementing the EU or Euratom budget); in particular, indirect costs if the beneficiary is already receiving an operating grant financed by the EU or Euratom budget in the same period[;][.]

*[(c) **OPTION for cost categories explicitly excluded in the call for proposals**⁶: [insert name of excluded cost category]].*

⁶ If no call for proposals, read as ‘letter inviting to submit a proposal’.

6.5 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 26).

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

CHAPTER 4 RIGHTS AND OBLIGATIONS OF THE PARTIES

SECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE ACTION

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION

7.1 General obligation to properly implement the action

The beneficiaries must implement the action as described in Annex 1 and in compliance with the provisions of the Agreement and all legal obligations under applicable EU, international and national law.

7.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27).

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTY INVOLVED IN THE ACTION

The beneficiaries must have the appropriate resources to implement the action.

If it is necessary to implement the action, the beneficiaries may:

- purchase goods, works and services (see Article 9);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 10);
- call upon affiliated entities to implement action tasks described in Annex 1 (see Article 11).

In these cases, the beneficiaries retain sole responsibility towards the Agency and the other beneficiaries for implementing the action.

ARTICLE 9 — PURCHASE OF GOODS, WORKS OR SERVICES

9.1 Rules for purchasing goods, works or services

9.1.1 If necessary to implement the action, the beneficiaries may purchase goods, works or services.

The beneficiaries must make such purchases ensuring the best value for money or, if appropriate, the lowest price. In doing so, they must avoid any conflict of interests (see Article 20).

The beneficiaries must ensure that the Agency, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Articles 17 and 18 also towards their contractors.

9.1.2 Beneficiaries that are ‘contracting authorities’ within the meaning of Directive 2004/18/EC⁷ or ‘contracting entities’ within the meaning of Directive 2004/17/EC⁸ must comply with the applicable national law on public procurement.

9.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 9.1.1, the costs related to the contract concerned will be ineligible (see Article 6) and will be rejected (see Article 26).

If a beneficiary breaches any of its obligations under Article 9.1.2, the grant may be reduced (see Article 27).

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

ARTICLE 10 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

10.1 Rules for subcontracting action tasks

10.1.1 If necessary to implement the action, the beneficiaries may award subcontracts covering the implementation of certain action tasks described in Annex 1.

Subcontracting may cover only a limited part of the action.

The beneficiaries must award the subcontracts ensuring the best value for money or, if appropriate, the lowest price. In doing so, they must avoid any conflict of interests (see Article 20).

⁷ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public work contracts, public supply contracts and public service contracts (OJ L 134, 30.04.2004, p. 114).

⁸ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.04.2004, p. 1).

The tasks to be implemented and the estimated cost for each subcontract must be set out in Annex 1 and the total estimated costs of subcontracting per beneficiary must be set out in Annex 2. The Agency may however approve subcontracts not set out in Annex 1 and 2 without amendment (see Article 39), if:

- they are specifically justified in the periodic technical report and
- they do not entail changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

The beneficiaries must ensure that the Agency, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Articles 17 and 18 also towards their subcontractors.

10.1.2 The beneficiaries must ensure that their obligations under Articles 20, 21, 22 and 30 also apply to the subcontractors.

Beneficiaries that are ‘contracting authorities’ within the meaning of Directive 2004/18/EC or ‘contracting entities’ within the meaning of Directive 2004/17/EC must comply with the applicable national law on public procurement.

10.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 10.1.1, the costs related to the subcontract concerned will be ineligible (see Article 6) and will be rejected (see Article 26).

If a beneficiary breaches any of its obligations under Article 10.1.2, the grant may be reduced (see Article 27).

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

ARTICLE 11 — IMPLEMENTATION OF ACTION TASKS BY AFFILIATED ENTITIES

[OPTION:

11.1 Rules for calling upon affiliated entities to implement part of the action

*11.1.1 The following **affiliated entities**⁹ may implement the action tasks attributed to them in Annex 1:*

- *[name of the entity (short name)], affiliated to [short name of the beneficiary]*

⁹ For the definition, see Article 122 of the Financial Regulation (EU, Euratom) No 966/2012: **entities affiliated to the beneficiary** are:

- (a) entities that form a ‘sole beneficiary’ (i.e. where an entity is formed of several entities that satisfy the criteria for being awarded a grant, including where the entity is specifically established for the purpose of implementing an action to be financed by a grant);
- (b) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Article 131(4) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

- [name of the entity (short name)], affiliated to [short name of the beneficiary]
[same for more affiliated entities]

The affiliated entities may declare as eligible the costs they incur for implementing the action tasks in accordance with Article 6.3.

The beneficiaries must ensure that the Agency, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Articles 17 and 18 also towards their affiliated entities.

11.1.2 The beneficiaries must ensure that their obligations under Articles 13, 15, 20, 21 and 22 also apply to their affiliated entities.

11.2 Consequences of non-compliance

If any obligation under Article 11.1.1 is breached, the costs of the affiliated entity will be ineligible (see Article 6) and will be rejected (see Article 26).

If any obligation under Article 11.1.2 is breached, the grant may be reduced (see Article 27).

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

[OPTION: Not applicable]

ARTICLE 11a — FINANCIAL SUPPORT TO THIRD PARTIES

[OPTION for ERASMUS Young Entrepreneurs, to be used if foreseen in the call for proposals:

11a.1 Rules for providing financial support to third parties

11a.1.1 The beneficiaries must provide financial support in accordance with the conditions set out in Annex 1.

At a minimum, these conditions must include:

- (a) the maximum amount of financial support for each third party.*

The maximum amount may not exceed EUR 6 600 for each third part, unless it is necessary to achieve the objectives of the action as described in Annex 1;

- (b) the criteria for calculating the exact amount of the financial support;*

- (c) the different types of activity that qualify for financial support, on the basis of a closed list;*

- (d) the persons or categories of persons that may receive financial support, and*

- (e) the criteria for giving financial support.*

The beneficiaries must ensure that the Commission, the Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Articles 17 and 18 also towards the third parties receiving financial support.

11a.1.2 The beneficiaries must ensure that their obligations under Articles 13, 15, 20, 21 and 22 also apply to the third parties receiving financial support.

11a.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Articles 11a.1.1 the costs related to the financial support will be ineligible (see Article 6) and will be rejected (see Article 26).

If a beneficiary breaches any of its obligations under Articles 11a.1.2, the grant may be reduced (see Article 27).

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

[OPTION: Not applicable]

SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION

ARTICLE 12 — GENERAL OBLIGATION TO INFORM

12.1 General obligation to provide information upon request

The beneficiaries must provide — during implementation of the action or afterwards and in accordance with article 25.2 — any information requested in order to verify eligibility of the costs, proper implementation of the action and compliance with the other obligations under the Agreement.

12.2 Obligation to keep information up to date and to inform about events and circumstances likely to affect the Agreement

Each beneficiary must keep information stored in the ‘Beneficiary Register’ (via the electronic exchange system; see Article 36) up to date, in particular, its name, address, legal representatives, legal form and organisation type.

Each beneficiary must immediately inform the coordinator — which must immediately inform the Agency and the other beneficiaries — of any of the following:

- (a) **events** which are likely to affect significantly or delay the implementation of the action or the EU’s financial interests, in particular:
 - (i) changes in its legal, financial, technical, organisational or ownership situation *[or those of its affiliated entities and*

(ii) *changes in the name, address, legal form, organisation type of its affiliated entities;*

(b) **circumstances** affecting:

(i) the decision to award the grant or

(ii) compliance with requirements under the Agreement.

12.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27).

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

ARTICLE 13 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

13.1 Obligation to keep records and other supporting documentation

The beneficiaries must — for a period of [*OPTION by default: five*][*OPTION for low value grants*¹⁰: *three*] years after the payment of the balance — keep records and other supporting documentation in order to prove the proper implementation of the action and the costs they declare as eligible.

They must make them available upon request (see Article 12) or in the context of checks, reviews, audits or investigations (see Article 17).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under the Agreement (including the extension of findings; see Article 17), the beneficiaries must keep the records and other supporting documentation until the end of these procedures.

The beneficiaries must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. The Agency may accept non-original documents if they considers that they offer a comparable level of assurance.

13.1.1 Records and other supporting documentation on the scientific and technical implementation

¹⁰ For the definition, see Article 185 of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31/12/2012, p. 1) ('**Rules of Application** Regulation No 1268/2012'): '**low value grants**' are lower or equal to EUR 60 000.

The beneficiaries must keep records and other supporting documentation on the technical implementation of the action, in line with the accepted standards in the respective field.

13.1.2 Records and other documentation to support the costs declared

The beneficiaries must keep the records and documentation supporting the costs declared, in particular the following:

- (a) for **actual costs**: adequate records and other supporting documentation to prove the costs declared, such as contracts, subcontracts, invoices and accounting records. In addition, the beneficiaries' usual cost accounting practices and internal control procedures must enable direct reconciliation between the amounts declared, the amounts recorded in their accounts and the amounts stated in the supporting documentation;
- (b) for **unit costs**: *[OPTION: Erasmus for young Entrepreneurs (to be used if Article 11a applies): adequate records and other supporting documentation to prove the number of units declared. Beneficiaries do not need to identify the actual eligible costs covered or to keep or provide supporting documentation (such as accounting statements) to prove the amount per unit][OPTION: not applicable];*
- (c) for **flat-rate costs**: adequate records and other supporting documentation to prove the eligibility of the costs to which the flat-rate is applied. The beneficiaries do not need to identify the costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared at a flat-rate.

In addition, for **personnel costs** (declared as actual costs), the beneficiaries must keep **time records** for the number of hours declared. The time records must be in writing and approved by the persons working on the action and their supervisors, at least monthly. In the absence of reliable time records of the hours worked on the action, the Agency may accept alternative evidence supporting the number of hours declared, if it considers that it offers an adequate level of assurance.

As an exception, for **persons working exclusively on the action**, there is no need to keep time records, if the beneficiary signs a **declaration** confirming that the persons concerned have worked exclusively on the action.

[OPTION to be added if Article 11 applies: For costs declared by affiliated entities (see Article 11), it is the beneficiary that must keep the originals of the financial statements and the certificates on the financial statements of the affiliated entities.]

13.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 26), and the grant may be reduced (see Article 27).

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

ARTICLE 14 — SUBMISSION OF DELIVERABLES

14.1 Obligation to submit deliverables

The coordinator must submit:

- *[OPTION if applicable to the grant: the following ‘progress report(s)’:*
 - *a first progress report by [insert date], covering the period from month 1 to month [A];*
 - *a second progress report by [insert date], covering the period from month [A+1] to month [B];*
[same for other progress reports]
- the ‘**deliverables**’ identified in Annex 1, in accordance with the timing and conditions set out in it.

14.2 Consequences of non-compliance

If the coordinator breaches any of its obligations under this Article, the Agency may apply any of the measures described in Chapter 6.

ARTICLE 15 — REPORTING — PAYMENT REQUESTS

15.1 Obligation to submit reports

The coordinator must submit to the Agency (see Article 36) the technical and financial reports set out in this Article. These reports include the requests for payment and must be drawn up using the forms and templates provided in the electronic exchange system (see Article 36).

15.2 Reporting periods

The action is divided into the following ‘**reporting periods**’:

- RP1: from month 1 to month [X]¹¹
[- RP2: from month [X+1] to month [Y]
- RP3: from month [Y+1] to month [Z]
[same for other RPs]
- RPN: from month [N+1] to *[the last month of the project].]*

15.3 Periodic reports — Requests for interim payments

The coordinator must submit a periodic report within 60 days following the end of each reporting period.

¹¹ For grant agreements lasting for more than 24 months: 2 reporting periods of equal length. For grant agreements lasting up to 24 months: one reporting period.

The **periodic report** must include the following:

(a) a '**periodic technical report**' containing:

- (i) an **explanation of the work carried out** by the beneficiaries;
- (ii) an **overview of the progress** towards the objectives of the action, including milestones and deliverables identified in Annex 1.

This report must include explanations justifying the differences between work expected to be carried out in accordance with Annex 1 and that actually carried out.

(iii) a **summary** for publication by the Agency;

(b) a '**periodic financial report**' containing:

- an '**individual financial statement**' (see Annex 4) from each beneficiary [*and from each affiliated entity*], for the reporting period concerned.

The individual financial statement must detail the eligible costs (actual costs, unit costs (if any) and flat-rate costs; see Article 6) for each budget category (see Annex 2).

The beneficiaries [*and affiliated entities*] must declare all eligible costs, even if — for actual costs, unit costs (if any) and flat-rate costs — they exceed the amounts indicated in the estimated budget (see Annex 2). Amounts which are not declared in the individual financial statement will not be taken into account by the Agency.

If an individual financial statement is not submitted for a reporting period, it may be included in the periodic financial report for the next reporting period.

The individual financial statements of the last reporting period must also detail the **receipts of the action** (see Article 5.3.3).

Each beneficiary [*and each affiliated entity*] must **certify** that:

- the information provided is full, reliable and true;
- the costs declared are eligible (see Article 6);
- the costs can be substantiated by adequate records and supporting documentation (see Article 13) that will be produced upon request (see Article 12) or in the context of checks, reviews, audits and investigations (see Article 17), and

- for the last reporting period: that all the receipts have been declared (see Article 5.3.3);
- an **explanation of the use of resources** and the information on subcontracting (see Article 10) from each beneficiary [*and from each affiliated entity*], for the reporting period concerned;
- *[OPTION if the JRC is a beneficiary: information on the amount of each interim payment and payment of the balance to be paid by the Agency to the Joint Research Centre (JRC);][OPTION: not applicable;]*
- a ‘**periodic summary financial statement**’ (see Annex 4), created automatically by the electronic exchange system, consolidating the individual financial statements for the reporting period concerned and including — except for the last reporting period — the **request for interim payment**;
- a ‘**certificate on the financial statements**’ (drawn up in accordance with Annex 5) for each beneficiary [*and for each affiliated entity*], if:
 - the (cumulative) amount of payments it requests as reimbursement of actual costs (and for which no certificate has yet been submitted) is EUR 325 000 or more and
 - the maximum grant amount indicated, for that beneficiary, in the estimated budget as reimbursement of actual costs is EUR 750 000 or more.

15.4 Final report — Request for payment of the balance

In addition to the periodic report for the last reporting period, the coordinator must submit the final report within 60 days following the end of the last reporting period.

The **final report** must include the following:

- (a) a ‘**final technical report**’ with a **summary** for publication containing:
 - (i) an overview of the results and their dissemination;
 - (ii) the conclusions on the action;
- (b) a ‘**final financial report**’ containing a ‘**final summary financial statement**’ (see Annex 4), created automatically by the electronic exchange system, consolidating the individual financial statements for all reporting periods and including the **request for payment of the balance**.

15.5 Information on cumulative expenditure incurred

[OPTION for big grants with reporting periods beyond 18 months¹²: *In addition to the reporting requirements set out above (Article 15.1 to 15.3), the coordinator must inform the Agency by [31 December][30 November] each year of the cumulative expenditure incurred by the beneficiaries from the start date of the action.*

This information is required for the Commission's accounting purposes and will not be used to calculate the final grant amount.]

[OPTION: *Not applicable]*

15.6 Currency for financial statements and conversion into euro

Financial statements must be drafted in euro.

Beneficiaries *[and affiliated entities]* with accounting established in a currency other than the euro must convert the costs recorded in their accounts into euro, at the average of the daily exchange rates published in the C series of the *Official Journal of the European Union*, calculated over the corresponding reporting period.

If no daily euro exchange rate is published in the *Official Journal of the European Union* for the currency in question, they must be converted at the average of the monthly accounting rates published on the Commission's website, calculated over the corresponding reporting period.

Beneficiaries *[and affiliated entities]* with accounting established in euro must convert costs incurred in another currency into euro according to their usual accounting practices.

15.7 Language of reports

All reports (technical and financial reports, including financial statements) must be submitted in the language of the Agreement.

15.8 Consequences of non-compliance — Suspension of the payment deadline — Termination

If the reports submitted do not comply with this Article, the Agency may suspend the payment deadline (see Article 31) and apply any of the other measures described in Chapter 6.

If the coordinator breaches its obligation to submit the reports and if it fails to comply with this obligation within 30 days following a written reminder sent by the Agency, the Agreement may be terminated (see Article 34).

ARTICLE 16 — PAYMENTS AND PAYMENT ARRANGEMENTS

16.1 Payments to be made

¹² To be added in the case of grants of more than EUR 5 million for which a pre-financing is paid and the reporting periods for interim payments or payments of the balance exceed eighteen months.

The following payments will be made to the coordinator:

- one **pre-financing payment**;
- one or more **interim payments**, on the basis of the request(s) for interim payment (see Article 15), and
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 15).

16.2 Pre-financing payment — Amount [— *Pre-financing guarantee*]

The aim of the pre-financing is to provide the beneficiaries with a float.

It remains the property of the EU until the payment of the balance.

The amount of the pre-financing payment will be EUR [insert amount (insert amount in words)].

[OPTION if the Agency requires a pre-financing guarantee¹³: The payment of the pre-financing will be conditional on receipt of a financial guarantee of EUR [insert amount (insert amount in words)], that fulfils the following conditions:

- (a) *it is provided by a bank or an approved financial institution or — if requested by the coordinator and accepted by the Agency — by a third party;*
- (b) *the guarantor stands as first-call guarantor and does not require the Agency (or Commission) to first have recourse against the principal debtor (i.e. the beneficiary concerned), and*
- (c) *it explicitly remains in force until the payment of the balance and, if payment of the balance takes the form of recovery, until three months after the debit note is notified to a beneficiary.*

The guarantee will be released within the following month.]

The Agency will — except if Article 32 applies — make the pre-financing payment to the coordinator within 30 days, either from entry into force of the Agreement (see Article 42) or from 10 days before the starting date of the action (see Article 3) **[OPTION if Agency requires a pre-financing guarantee: or from the receipt of the pre-financing guarantee]**, whichever is the latest.

¹³ A pre-financing guarantee may be required by the responsible authorising officer (RAO), if s/he considers it necessary (i.e. appropriate and proportionate), to limit the financial risks connected with the payment of pre-financing: Pre-financing guarantees may not be requested for low-value grants (see Article 134 of the Financial Regulation).

[OPTION if the JRC is a beneficiary: Moreover, the part of the pre-financing payment related to the Joint Research Centre (JRC) ([insert amount (insert amount in words)]) is not paid to the coordinator, but kept by the Agency for the JRC.]

16.3 Interim payments — Amount — Calculation

Interim payments reimburse the eligible costs incurred for the implementation of the action during the corresponding reporting periods.

The Agency will pay to the coordinator the amount due as interim payment within 60 days from receiving the periodic report (see Article 15.3), except if Articles 31 or 32 apply.

Payment is subject to the approval of the periodic report. Its approval does not imply recognition of the compliance, authenticity, completeness or correctness of its content.

The **amount due as interim payment** is calculated by the Agency in the following steps:

Step 1 — Application of the reimbursement rate

Step 2 — Limit to 90% of the maximum grant amount

16.3.1 Step 1 — Application of the reimbursement rate

The reimbursement rate (see Article 5.2) is applied to the eligible costs (actual costs, unit costs (if any) and flat-rate costs; see Article 6) declared by the beneficiaries *[and the affiliated entities]* (see Article 15) and approved by the Agency (see above) for the concerned reporting period.

16.3.2 Step 2 — Limit to 90% of the maximum grant amount

The total amount of pre-financing and interim payments must not exceed 90% of the maximum grant amount set out in Article 5.1. The maximum amount for the interim payment will be calculated as follows:

{90% of the maximum grant amount (see Article 5.1)

minus

{pre-financing and previous interim payments} }.

16.4 Payment of the balance — Amount — Calculation

The payment of the balance reimburses the remaining part of the eligible costs incurred by the beneficiaries for the implementation of the action.

If the total amount of earlier payments is greater than the final grant amount (see Article 5.3), the payment of the balance takes the form of a recovery (see Article 28).

If the total amount of earlier payments is lower than the final grant amount, the Agency will pay the balance within 60 days from receiving the final report (see Article 15.4), except if Articles 31 or 32 apply.

Payment is subject to the approval of the final report. Its approval does not imply recognition of the compliance, authenticity, completeness or correctness of its content.

The **amount due as the balance** is calculated by the Agency by deducting the total amount of pre-financing and interim payments (if any) already made, from the final grant amount determined in accordance with Article 5.3:

$$\begin{array}{l} \{ \text{final grant amount (see Article 5.3)} \\ \text{minus} \\ \{ \text{pre-financing and interim payments (if any) made} \} \}. \end{array}$$

If the balance is positive, it will be paid to the coordinator

The amount to be paid may however be offset — without the beneficiary's consent — against any other amount owed by the beneficiary to the Agency, the Commission or another executive agency (under the EU or Euratom budget), up to the maximum EU contribution indicated, for that beneficiary, in the estimated budget (see Annex 2).

If the balance is negative, it will be recovered.

16.5 Notification of amounts due

When making payments, the Agency will formally notify to the coordinator the amount due, specifying whether it concerns an interim payment or the payment of the balance.

For the payment of the balance, the notification will also specify the final grant amount.

In the case of reduction of the grant or recovery of undue amounts, the notification will be preceded by the contradictory procedure set out in Articles 27 and 28.

16.6 Currency for payments

The Agency will make all payments in euro.

16.7 Payments to the coordinator — Distribution to the beneficiaries

Payments will be made to the coordinator.

Payments to the coordinator will discharge the Agency from its payment obligation.

The coordinator must distribute the payments between the beneficiaries without unjustified delay.

Pre-financing may however be distributed only:

- (a) if 90% of the beneficiaries have acceded to the Agreement (see Article 40) and
- (b) to beneficiaries that have acceded to the Agreement (see Article 40).

16.8 Bank account for payments

All payments will be made to the following bank account:

Name of bank: [...]
Address of branch: [...]
Full name of the account holder: [...]
Full account number (including bank codes): [...]
[IBAN code: [...]]¹⁴

16.9 Costs of payment transfers

The cost of the payment transfers is borne as follows:

- the Agency bears the cost of transfers charged by its bank;
- the beneficiary bears the cost of transfers charged by its bank;
- the party causing a repetition of a transfer bears all costs of the repeated transfer.

16.10 Date of payment

Payments by the Agency are considered to have been carried out on the date when they are debited to its account.

16.11 Consequences of non-compliance

16.11.1 If the Agency does not pay within the payment deadlines (see above), the beneficiaries are entitled to **late-payment interest** at the rate applied by the European Central Bank (ECB) for its main refinancing operations in euros ('reference rate'), plus three and a half points. The reference rate is the rate in force on the first day of the month in which the payment deadline expires, as published in the C series of the *Official Journal of the European Union*.

If the late-payment interest is lower than or equal to EUR 200, it will be paid to the coordinator only upon request submitted within two months of receiving the late payment.

Late-payment interest is not due if all beneficiaries are EU Member States (including regional and local government authorities or other public bodies acting on behalf of a Member State for the purpose of this Agreement).

¹⁴ BIC or SWIFT code applies to for countries if the IBAN code does not apply.

Suspension of the payment deadline or payments (see Articles 31 and 32) will not be considered as late payment.

Late-payment interest covers the period running from the day following the due date for payment (see above), up to and including the date of payment.

Late-payment interest is not considered for the purposes of calculating the final grant amount.

16.11.2 If the coordinator breaches any of its obligations under this Article, the grant may be reduced (see Article 27) and the Agreement or the participation of the coordinator may be terminated (see Article 34).

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

ARTICLE 17 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

17.1 Checks, reviews and audits by the Agency and the Commission

17.1.1 Right to carry out checks

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

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

The Agency or the Commission may also request additional information in accordance with Article 12. The Agency or the Commission may request beneficiaries to provide such information to it directly.

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

17.1.2 Right to carry out reviews

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

Reviews may be started **up to [OPTION by default: five][OPTION for low value grants: three] years after the payment of the balance**. They will be formally notified to the coordinator or beneficiary concerned and will be considered to have started on the date of the formal notification.

If the review is carried out on a third party (see Articles 9, 10, 11), the beneficiary concerned must inform the third party.

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

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

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

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

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

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

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

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

17.1.3 Right to carry out audits

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

Audits may be started **up to [OPTION by default: five][OPTION for low value grants: three] years after the payment of the balance**. They will be formally notified to the coordinator or beneficiary concerned and will be considered to have started on the date of the formal notification.

If the audit is carried out on a third party (see Articles 9, 10, 11), the beneficiary concerned must inform the third party.

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

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

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

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

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

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

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

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

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

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

Under Regulations No 883/2013¹⁵ and No 2185/96¹⁶ (and in accordance with their provisions and procedures), the European Anti-Fraud Office (OLAF) may — at any moment during implementation of the action or afterwards — carry out investigations, including on-the-spot checks and inspections, to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU.

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

Under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 161 of the Financial Regulation No 966/2012¹⁷, the European Court of Auditors

¹⁵ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

¹⁶ Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

¹⁷ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, EURATOM) No 1605/2002 (OJ L 298, 26/10/2012, p. 1).

(ECA) may — at any moment during implementation of the action or afterwards — carry out audits.

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

17.4 Checks, reviews, audits and investigations for international organisations

[OPTION for international organisations: In conformity with its financial regulations, the European Union, including the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA), may undertake, including on the spot, checks, reviews audits and investigations.

This Article will be applied in accordance with any specific agreement concluded in this respect by the international organisation and the European Union.]

[OPTION: Not applicable]

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

17.5.1 Findings in this grant

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to the rejection of ineligible costs (see Article 26), reduction of the grant (see Article 27), recovery of undue amounts (see Article 28) or to any of the other measures described in Chapter 6.

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

Findings in checks, reviews, audits or investigations may lead to a request for amendment for the modification of Annex 1 (see Article 39).

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

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

17.5.2 Findings in other grants

The Agency or the Commission may extend findings from other grants to this grant (**‘extension of findings from other grants to this grant’**), if:

- (a) the beneficiary concerned is found, in other EU or Euratom grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant and

- (b) those findings are formally notified to the beneficiary concerned — together with the list of grants affected by the findings — **no later than [OPTION by default: five][OPTION for low value grants: three] years after the payment of the balance of this grant.**

The extension of findings may lead to the rejection of costs (see Article 26), reduction of the grant (see Article 27), recovery of undue amounts (see Article 28), suspension of payments (see Article 32), suspension of the action implementation (see Article 33) or termination (see Article 34).

17.5.3 Procedure

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

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

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

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

The Agency or the Commission may then start a rejection procedure in accordance with the procedure set out in Article 26, either on the basis of the revised financial statements or the rate announced.

17.5.3.2 If the findings concern **improper implementation** or a **breach of another obligation**: the formal notification will include:

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

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

The Agency or the Commission may then start a reduction procedure in accordance with the procedure set out in Article 27, either on the basis of the alternative flat-rate or the flat-rate announced.

17.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, any insufficiently substantiated costs will be ineligible (see Article 6) and will be rejected (see Article 26).

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

ARTICLE 18 — EVALUATION OF THE IMPACT OF THE ACTION

18.1 Right to evaluate the impact of the action

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

Evaluations may be started during implementation of the action and **up to [OPTION by default: five][OPTION for low value grants: three] years after the payment of the balance**. The evaluation is considered to start on the date of the formal notification to the coordinator or beneficiaries.

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

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

18.2 Consequences of non-compliance

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

SECTION 3 OTHER RIGHTS AND OBLIGATIONS

ARTICLE 19 — PRE-EXISTING RIGHTS AND OWNERSHIP OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)

19.1 Pre-existing rights and access rights to pre-existing rights

Where industrial and intellectual property rights (including rights of third parties) exist prior to the Agreement, the beneficiaries must establish a list of these pre-existing industrial and intellectual property rights, specifying the owner and any persons that have a right of use.

The coordinator must — before starting the action — submit this list to the Agency.

The beneficiaries must give each other (and their affiliated entities) access to any pre-existing industrial and intellectual property rights needed for the implementation of the action and compliance with the obligations under the Agreement.

19.2 Ownership of results and rights of use

[OPTION by default: The results of the action (including the reports and other documents relating to it) are owned by the beneficiaries.

The beneficiaries must give the Agency and the Commission the right to use the results for their communication activities under Article 22.]

[OPTION if explicitly requested by DG ENTR and foreseen in the call for proposals¹⁸: The results of the action (including the reports, webpages and other documents relating to it) are owned by the Agency.]

19.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27).

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

ARTICLE 20 — CONFLICT OF INTERESTS

20.1 Obligation to avoid a conflict of interests

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

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

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

20.2 Consequences of non-compliance

¹⁸ To be used only if justified by specific circumstances.

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27) and the Agreement or participation of the beneficiary may be terminated (see Article 34).

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

ARTICLE 21 — CONFIDENTIALITY

21.1 General obligation to maintain confidentiality

During implementation of the action and **for five years after the payment of the balance**, the parties must keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed (**‘confidential information’**).

They may use confidential information to implement the Agreement.

The confidentiality obligations no longer apply if:

- (a) the disclosing party agrees to release the other party;
- (b) the information becomes generally and publicly available, without breaching any confidentiality obligation;
- (c) the disclosure of the confidential information is required by EU or national law.

21.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27).

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

ARTICLE 22 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

22.1 Communication activities by the beneficiaries

22.1.1 General obligation to promote the action and its results

The beneficiaries must promote the action and its results.

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

Unless the Agency requests or agrees otherwise, any communication activity related to the action (including at conferences, seminars, in information material, such as brochures, leaflets, posters, presentations, etc., in electronic form, via social media, etc.) and any infrastructure, equipment of major result funded by the grant must:

- display the EU emblem and

- include the following text:

“This [insert appropriate description, e.g. report, publication, conference, infrastructure, equipment, insert type of result, etc.] is part of the project [insert project title] which has received funding from the European Union’s COSME Programme (2014-2020).”

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

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

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

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

22.1.3 Disclaimer excluding Agency/Commission responsibility

Any communication activity related to the action must indicate the following disclaimer:

“The content of this [insert appropriate description, e.g. report, publication, conference, etc.] represents the views of the author only and is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Executive Agency for Small and Medium-sized Enterprises or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.”

22.2 Communication activities by the Agency

22.2.1 Right to use beneficiaries’ materials, documents or information

The Agency may use information relating to the action, documents notably summaries for publication and public deliverables as well as any other material, such as pictures or audio-visual material that it receives from any beneficiary (including in electronic form).

This does not change the confidentiality obligations in Article 21, which still apply.

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

- (a) use for its own purposes** (in particular, making them available to persons working for the Agency or any other EU institution, body, office or agency or body or institutions in EU Member States; and copying or reproducing them in whole or in part, in unlimited numbers);
- (b) distribution to the public** (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes);

- (c) **editing or redrafting** for communication and publicising activities (including shortening, summarising, inserting other elements (such as meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation);
- (d) **translation**;
- (e) giving **access in response to individual requests** under Regulation No 1049/2001¹⁹, without the right to reproduce or exploit;
- (f) **storage** in paper, electronic or other form;
- (g) **archiving**, in line with applicable document-management rules, and
- (h) the right to authorise **third parties** to act on its behalf or sub-license the modes of use set out in Points (b), (c), (d) and (f) to third parties if needed for the communication and publicising activities of the Agency.

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

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

“© – [year] – [name of the copyright owner]. All rights reserved. Licensed to the Executive Agency for Small and Medium-sized Enterprises (EASME) under conditions.”

22.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 27).

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

ARTICLE 23 — PROCESSING OF PERSONAL DATA

23.1 Processing of personal data by the Agency and the Commission

Any personal data under the Agreement will be processed by the Agency or the Commission under Regulation No 45/2001²⁰ and according to the ‘notifications of the processing operations’ to the Data Protection Officer (DPO) of the Agency or the Commission (publicly accessible in the DPO register).

¹⁹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31/5/2001, p. 43).

²⁰ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12/01/2001, p 1)

Such data will be processed by the ‘**data controller**’ of the Agency or the Commission, for the purposes of implementing, managing and monitoring the Agreement or protecting the financial interests of the EU (including checks, reviews, audits and investigations; see Article 17).

The persons whose personal data are processed have the right to access and correct their own personal data. For this purpose, they must send any queries about the processing of their personal data to the data controller, via the contact point indicated in the ‘privacy statement’ on the Agency and Commission websites.

They also have the right to have recourse at any time to the European Data Protection Supervisor (EDPS).

23.2 Processing of personal data by the beneficiaries

The beneficiaries must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

The beneficiaries may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement.

The beneficiaries must inform the personnel whose personal data are collected and processed by the Agency or the Commission. For this purpose, they must provide them with the privacy statement (see above), before transmitting their data to the Agency or the Commission.

23.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 23.2, the Agency may apply any of the measures described in Chapter 6.

ARTICLE 24 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE AGENCY

The beneficiaries may not assign any of their claims for payment against the Agency to any third party, except if approved by the Agency on the basis of a reasoned, written request by the coordinator (on behalf of the beneficiary concerned).

If the Agency has not accepted the assignment or the terms of it are not observed, the assignment will have no effect on it.

In no circumstances will an assignment release the beneficiaries from their obligations towards the Agency.

CHAPTER 5 DIVISION OF BENEFICIARIES’ ROLES AND RESPONSIBILITIES

ARTICLE 25 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES

25.1 Roles and responsibilities towards the Agency

The beneficiaries have full responsibility for implementing the action and complying with the Agreement.

The beneficiaries are jointly and severally liable for the **technical implementation** of the action as described in Annex 1. If a beneficiary fails to implement its part of the action, the other beneficiaries become responsible for implementing this part (without being entitled to any additional EU funding for doing so), unless the Agency expressly relieves them of this obligation.

The **financial responsibility** of each beneficiary is governed by Articles 28, 29 and 30.

25.2 Internal division of roles and responsibilities

The internal roles and responsibilities of the beneficiaries are divided as follows:

(a) Each **beneficiary** must:

- (i) keep information stored in the 'Beneficiary Register' (via the electronic exchange system) up to date (see Article 12);
- (ii) inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 12);
- (iii) submit to the coordinator in good time:
 - individual financial statements for itself *[and its affiliated entities]* and, if required, certificates on the financial statements (see Article 15);
 - the data needed to draw up the technical reports (see Article 15);
 - any other documents or information required by the Agency or the Commission under the Agreement, unless the Agreement requires the beneficiary to submit this information directly to the Agency or the Commission.

(b) The **coordinator** must:

- (i) monitor that the action is implemented properly (see Article 7);
- (ii) act as the intermediary for all communications between the beneficiaries and the Agency (in particular, providing the Agency] with the information described in Article 12), unless the Agreement specifies otherwise;

- (iii) provide a pre-financing guarantee if requested by the Agency (see Article 16.2);
- (iv) request and review any documents or information required by the Agency and verify their completeness and correctness before passing them on to the Agency;
- (v) submit the deliverables and reports to the Agency (see Articles 14 and 15);
- (vi) ensure that all payments are made to the other beneficiaries without unjustified delay (see Article 16).

The coordinator may not delegate the above-mentioned tasks to any other beneficiary or subcontract them to any third party.

25.3 Internal arrangements between beneficiaries — Consortium agreement

The beneficiaries must have internal arrangements regarding their operation and co-ordination to ensure that the action is implemented properly. These internal arrangements must be set out in a written ‘**consortium agreement**’ between the beneficiaries, which may cover:

- internal organisation of the consortium;
- management of access to the electronic exchange system;
- distribution of EU funding;
- additional rules on rights and obligations related to background and results (including whether access rights remain or not, if a beneficiary is in breach of its obligations) (see Section 3 of Chapter 4);
- settlement of internal disputes;
- liability, indemnification and confidentiality arrangements between the beneficiaries.

The consortium agreement must not contain any provision contrary to the Agreement.

CHAPTER 6 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES — DAMAGES — SUSPENSION — TERMINATION — FORCE MAJEURE

SECTION 1 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES

ARTICLE 26 — REJECTION OF INELIGIBLE COSTS

26.1 Conditions

26.1.1 The Agency will — at the time of an **interim payment, at the payment of the balance or afterwards** — reject any costs which are ineligible (see Article 6), in particular following checks, reviews, audits or investigations (see Article 17).

26.1.2 The rejection may also be based on the **extension of findings from other grants to this grant**, under the conditions set out in Article 17.5.2.

26.2 Ineligible costs to be rejected — Calculation — Procedure

Ineligible costs will be rejected in full.

If the Agency rejects costs **without reduction of the grant** (see Article 27) or **recovery of undue amounts** (see Article 28), it will formally notify the coordinator or beneficiary concerned the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 16.5). The coordinator or beneficiary concerned may — within 30 days of receiving notification — formally notify the Agency of its disagreement and the reasons why.

If the Agency rejects costs **with reduction of the grant or recovery of undue amounts**, it will formally notify the rejection in the ‘**pre-information letter**’ on reduction or recovery set out in Articles 27 and 28.

26.3 Effects

If the Agency rejects costs at the time of an **interim payment or the payment of the balance**, it will deduct them from the total eligible costs declared, for the action, in the periodic or final summary financial statement (see Articles 15.3 and 15.4). It will then calculate the interim payment or payment of the balance as set out in Articles 16.3 or 16.4.

If the Agency — **after an interim payment but before the payment of the balance** — rejects costs declared in a periodic summary financial statement, it will deduct them from the total eligible costs declared, for the action, in the next periodic summary financial statement or in the final summary financial statement. It will then calculate the interim payment or payment of the balance as set out in Articles 16.3 or 16.4.

If the Agency rejects costs **after the payment of the balance**, it will deduct the amount rejected from the total eligible costs declared, by the beneficiary, in the final summary financial statement. It will then calculate the revised final grant amount as set out in Article 5.4.

ARTICLE 27 — REDUCTION OF THE GRANT

27.1 Conditions

27.1.1 The Agency may — **at the payment of the balance or afterwards** — reduce the maximum grant amount (see Article 5.1), if the action has not been implemented properly as described in Annex 1 or another obligation under the Agreement has been breached.

27.1.2 The Agency may also reduce the maximum grant amount on the basis of the **extension of findings from other grants to this grant**, under the conditions set out in Article 17.5.2.

27.2 Amount to be reduced — Calculation — Procedure

The amount of the reduction will be proportionate to the improper implementation of the action or to the seriousness of the breach.

Before reduction of the grant, the Agency will formally notify a ‘**pre-information letter**’ to the coordinator or beneficiary concerned:

- informing it of its intention to reduce the grant, the amount it intends to reduce and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If the Agency does not receive any observations or decides to pursue reduction despite the observations it has received, it will formally notify **confirmation** of the reduction (if applicable, together with the notification of amounts due; see Article 16).

27.3 Effects

If the Agency reduces the grant at the time of **the payment of the balance**, it will calculate the reduced grant amount for the action and then determine the amount due as payment of the balance (see Articles 5.3.4 and 16.4).

If the Agency reduces the grant **after the payment of the balance**, it will calculate the revised final grant amount for the action (see Article 5.4). If the revised final grant amount is lower than the final grant amount, the Agency will recover the difference (see Article 28).

ARTICLE 28 — RECOVERY OF UNDUE AMOUNTS

28.1 Amount to be recovered — Calculation — Procedure

The Agency will —**at the payment of the balance** or **afterwards** — claim back any amount that was paid, but is not due under the Agreement.

The coordinator is fully liable for repaying debts of the consortium (under the Agreement), even if it has not been the final recipient of those amounts.

[OPTION if Agency requires ‘joint and several liability’ of other beneficiaries: In addition, the beneficiaries (including the coordinator) are jointly and severally liable for repaying any debts under the Agreement (including late-payment interest) — up to the maximum EU contribution indicated, for each beneficiary, in the estimated budget (as last amended; see Annex 2).][OPTION if Agency requires ‘unconditional joint and several liability’ of other beneficiaries: In addition, the beneficiaries (including the coordinator) are jointly and severally liable for repaying any debts under the Agreement (including late-payment interest) — up to the maximum grant amount set out in Article 5.1.][OPTION if Agency requires

neither ‘joint and several liability’ nor ‘unconditional joint and several liability of other beneficiaries’: The other beneficiaries’ financial responsibility in case of recovery is limited, for each beneficiary, to its own debt.]

[OPTION to be added if Article 11 applies: Undue amounts paid by the Agency for costs declared by an affiliated entity will be considered as amounts unduly paid to the beneficiary.]

28.1.1 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 16.4), the Agency will formally notify a **‘pre-information letter’** to the coordinator:

- informing it of its intention to recover, the amount due as the balance and the reasons why and
- inviting the coordinator to submit observations within 30 days of receiving notification.

If no observations are submitted or the Agency decides to pursue recovery despite the observations it has received, it will **confirm** the amount to be recovered and formally notify to the coordinator a **debit note** with the terms and the date for payment (together with the notification of amounts due; see Article 16.5).

If payment is not made by the date specified in the debit note, the Agency or the Commission will **recover** the amount:

- (a) by **offsetting** it — without the coordinator’s consent — against any amounts owed to the coordinator by the Agency, Commission or another executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU’s financial interests, the Agency may offset before the payment date specified in the debit note;

- (b) *[OPTION if Agency requires pre-financing guarantee: by drawing on the financial guarantee (see Article 16.2)][not applicable];*
- (c) *[OPTION if Agency requires ‘joint and several liability’ of other beneficiaries: by holding the other beneficiaries jointly and severally liable — up to the maximum EU contribution indicated, for each beneficiary, in the estimated budget (as last amended; see Annex 2)][OPTION if Agency requires ‘unconditional joint and several liability’ of other beneficiaries: by holding the other beneficiaries jointly and severally liable — up to the maximum grant amount set out in Article 5.1.][OPTION if Agency requires neither ‘joint and several liability’ nor ‘unconditional joint and several liability of other beneficiaries’: not applicable];*
- (d) by **taking legal action** (see Article 41) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 79(2) of the Financial Regulation No 966/2012.

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 16.11, from the day following the payment date in the debit note, up to and including the date the Agency or the Commission receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

28.1.2 Recovery of amounts after payment of the balance

If — after the payment of the balance — the Agency revised the final grant amount for the action (see Article 5.4), due to a rejection of costs or reduction of the grant, and the revised final grant amount is lower than the final grant amount (see Article 5.3), the Agency will:

- if the rejection or reduction does *not* concern a specific beneficiary (or its affiliated entities): claim back the difference from the coordinator (even if it has not been the final recipient of the amount in question)

or

- otherwise: claim back the difference from the beneficiary concerned.

The Agency will formally notify a **pre-information letter** to the coordinator or beneficiary concerned:

- informing it of its intention to recover, the amount to be repaid and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If no observations are submitted or the Agency decides to pursue recovery despite the observations it has received, it will **confirm** the amount to be recovered and formally notify to the coordinator or beneficiary concerned a **debit note**. This note will also specify the terms and the date for payment.

If payment is not made by the date specified in the debit note, the Agency or the Commission will **recover** the amount:

- (a) by **offsetting** it — without the coordinator's or beneficiary's consent — against any amounts owed to the coordinator or beneficiary by the Agency, Commission or another executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the Agency may offset before the payment date specified in the debit note;

- (b) *[OPTION if Agency requires ‘joint and several liability’ of other beneficiaries: by holding the other beneficiaries jointly and severally liable, up to the maximum EU contribution indicated, for each beneficiary, in the estimated budget (as last amended; see Annex 2)]* *][OPTION if Agency requires ‘unconditional joint and several liability’ of other beneficiaries: by holding the other beneficiaries jointly and severally liable — up to the maximum grant amount set out in Article 5.1.]* *[OPTION if Agency requires neither ‘joint and several liability’ nor ‘unconditional joint and several liability of other beneficiaries’: not applicable];*
- (c) by **taking legal action** (see Article 41) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 79(2) of the Financial Regulation No 966/2012.

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 16.11, from the day following the date for payment in the debit note, up to and including the date the Agency or the Commission receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

ARTICLE 29 — ADMINISTRATIVE AND FINANCIAL PENALTIES

29.1 Conditions

Under Articles 109 and 131(4) of the Financial Regulation No 966/2012, the Agency may impose **administrative** and **financial penalties** if a beneficiary:

- (a) has committed substantial errors, irregularities or fraud or is in serious breach of its obligations under the Agreement or
- (b) has made false declarations about information required under the Agreement or for the submission of the proposal (or has not supplied such information).

Each beneficiary is responsible for paying the financial penalties imposed on it.

Under Article 109(3) of the Financial Regulation No 966/2012, the Agency or the Commission may — under certain conditions and limits — publish decisions imposing administrative or financial penalties.

29.2 Duration — Amount of penalty — Calculation

Administrative penalties exclude the beneficiary from all contracts and grants financed from the EU or Euratom budget for a maximum of five years from the date the infringement is established by the Agency.

If the beneficiary commits another infringement within five years of the date the first infringement is established, the Agency may extend the exclusion period up to 10 years.

Financial penalties will be between 2% and 10% of the maximum EU contribution indicated, for the beneficiary concerned, in the estimated budget (see Annex 2).

If the beneficiary commits another infringement within five years of the date the first infringement is established, the Agency may increase the rate of financial penalties to between 4% and 20%.

29.3 Procedure

Before applying a penalty, the Agency will formally notify the beneficiary concerned:

- informing it of its intention to impose a penalty, its duration or amount and the reasons why and
- inviting it to submit observations within 30 days.

If the Agency does not receive any observations or decides to impose the penalty despite of observations it has received, it will formally notify **confirmation** of the penalty to the beneficiary concerned and — in case of financial penalties — deduct the penalty from the payment of the balance or formally notify a **debit note**, specifying the amount to be recovered, the terms and the date for payment.

If payment is not made by the date specified in the debit note, the Agency or the Commission may **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary concerned by the Agency, Commission or another executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the Agency may offset before the payment date in the debit note;

- (b) by **taking legal action** (see Article 41) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 79(2) of the Financial Regulation No 966/2012.

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 16.11, from the day following the payment date in the debit note, up to and including the date the Agency or the Commission receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

SECTION 2 LIABILITY FOR DAMAGES

ARTICLE 30 — LIABILITY FOR DAMAGES

30.1 Liability of the Agency

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

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

30.2 Liability of the beneficiaries

30.2.1 Conditions

Except in case of force majeure (see Article 35), the beneficiaries must compensate the Agency for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement.

Each beneficiary is responsible for paying the damages claimed from it.

30.2.2 Amount of damages — Calculation

The amount the Agency can claim from a beneficiary will correspond to the damage caused by that beneficiary.

30.2.3 Procedure

Before claiming damages, the Agency will formally notify the beneficiary concerned:

- informing it of its intention to claim damages, the amount and the reasons why and
- inviting it to submit observations within 30 days.

If the Agency does not receive any observations or decides to claim damages despite the observations it has received, it will formally notify **confirmation** of the claim for damages and a **debit note**, specifying the amount to be recovered, the terms and the date for payment.

If payment is not made by the date specified in the debit note, the Agency or the Commission may **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary concerned by the Agency, Commission or another executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the Agency may offset before the payment date in the debit note;

- (b) by **taking legal action** (see Article 41) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 79(2) of the Financial Regulation No 966/2012.

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 16.11, from the day following the payment date in the debit note, up to and including the date the Agency or the Commission receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

SECTION 3 SUSPENSION AND TERMINATION

ARTICLE 31 — SUSPENSION OF PAYMENT DEADLINE

31.1 Conditions

The Agency may — at any moment — suspend the payment deadline (see Article 16.2 to 16.4) if a request for payment (see Article 15) cannot be approved because:

- (a) it does not comply with the provisions of the Agreement (see Article 15);
- (b) the technical reports or financial reports have not been submitted or are not complete or additional information is needed, or
- (c) there is doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

31.2 Procedure

The Agency will formally notify the coordinator of the suspension and the reasons why.

The suspension will **take effect** the day notification is sent by the Agency (see Article 36).

If the conditions for suspending the payment deadline are no longer met, the suspension will be **lifted** — and the remaining period will resume.

If the suspension exceeds two months, the coordinator may request the Agency if the suspension will continue.

If the payment deadline has been suspended due to the non-compliance of the technical or financial reports (see Article 15) and the revised report or statement is not submitted or was submitted but is also rejected, the Agency may also terminate the Agreement or the participation of the beneficiary (see Article 34.3.1).

ARTICLE 32 — SUSPENSION OF PAYMENTS

32.1 Conditions

The Agency may — at any moment — suspend, in whole or in part, the pre-financing payment and interim payments for one or more beneficiaries or the payment of the balance for all beneficiaries, if a beneficiary:

- (a) has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under this Agreement or
- (b) has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (**extension of findings from other grants to this grant**; see Article 17.5.2).

32.2 Procedure

Before suspending payments, the Agency will formally notify the coordinator:

- informing it of its intention to suspend payments and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If the Agency does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify **confirmation** of the suspension. Otherwise, it will formally notify that the suspension procedure is not continued.

The suspension will **take effect** the day the confirmation notification is sent by the Agency.

If the conditions for resuming payments are met, the suspension will be **lifted**. The Commission will formally notify the coordinator.

During the suspension, the periodic report(s) (see Article 15.3) must not contain any individual financial statements from the beneficiary concerned [*and its affiliated entities*].

When the Agency resumes payments, the coordinator may include them in the next periodic report.

The beneficiaries may suspend implementation of the action (see Article 33.1) or terminate the Agreement or the participation of the beneficiary concerned (see Article 34.1 and 34.2).

ARTICLE 33 — SUSPENSION OF THE ACTION IMPLEMENTATION

33.1 Suspension of the action implementation, by the beneficiaries

33.1.1 Conditions

The beneficiaries may suspend implementation of the action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 35) — make implementation impossible or excessively difficult.

33.1.2 Procedure

The coordinator must immediately formally notify to the Agency the suspension (see Article 36), stating:

- the reasons why and
- the expected date of resumption.

The suspension will **take effect** the day this notification is received by the Agency.

Once circumstances allow for implementation to resume, the coordinator must immediately formally notify the Agency and request an **amendment** of the Agreement to set the date on which the action will be resumed, extend the duration of the action and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the Agreement or the participation of a beneficiary has been terminated (see Article 34).

The suspension will be **lifted** with effect from the resumption date set out in the amendment. This date may be before the date on which the amendment enters into force.

Costs incurred during suspension of the action implementation are not eligible (see Article 6).

33.2 Suspension of the action implementation, by the Agency

33.2.1 Conditions

The Agency may suspend implementation of the action or any part of it:

- (a) if a beneficiary has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under this Agreement or

- (b) if a beneficiary has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (**extension of findings from other grants to this grant**; see Article 17.5.2).

33.2.2 Procedure

Before suspending implementation of the action, the Agency will formally notify the coordinator:

- informing it of its intention to suspend the implementation and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If the Agency does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify **confirmation** of the suspension. Otherwise, it will formally notify that the procedure is not continued.

The suspension will **take effect** five days after confirmation notification is received by the coordinator (or on a later date specified in the notification).

It will be **lifted** if the conditions for resuming implementation of the action are met.

The coordinator will be formally notified of the lifting and the Agreement will be **amended** to set the date on which the action will be resumed, extend the duration of the action and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the Agreement has already been terminated (see Article 34).

The suspension will be lifted with effect from the resumption date set out in the amendment. This date may be before the date on which the amendment enters into force.

Costs incurred during suspension are not eligible (see Article 6).

The beneficiaries may not claim damages due to suspension by the Agency (see Article 30).

Suspension of the action implementation does not affect the Agency's right to terminate the Agreement or participation of a beneficiary (see Article 34), reduce the grant or recover amounts unduly paid (see Articles 27 and 28).

ARTICLE 34 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

34.1 Termination of the Agreement, by the beneficiaries

34.1.1 Conditions and procedure

The beneficiaries may terminate the Agreement.

The coordinator must formally notify termination to the Agency (see Article 36), stating:

- the reasons why and
- the date the termination will take effect. This date must be after the notification.

If no reasons are given or if the Agency considers the reasons do not justify termination, the Agreement will be considered to have been '**terminated improperly**'.

The termination will **take effect** on the day specified in the notification.

34.1.2 Effects

The coordinator must — within 60 days from when termination takes effect — submit:

- (i) a periodic report (for the open reporting period until termination; see Article 15.3) and
- (ii) the final report (see Article 15.4).

If the Agency does not receive the reports within the deadline (see above), only costs which are included in an approved periodic report will be taken into account.

The Agency will **calculate** the final grant amount (see Article 5.3) and the balance (see Article 16.4) on the basis of the reports submitted. Only costs incurred until termination are eligible (see Article 6). Costs relating to contracts due for execution only after termination are not eligible.

Improper termination may lead to a reduction of the grant (see Article 27).

After termination, the beneficiaries' obligations (in particular, Articles 15, 17, 18, Section 3 of Chapter 4, 21, 22 and 24) continue to apply.

34.2 Termination of the participation of one or more beneficiaries, by the beneficiaries

34.2.1 Conditions and procedure

The participation of one or more beneficiaries may be terminated by the coordinator, on request of the beneficiary concerned or on behalf of the other beneficiaries.

The coordinator must formally notify termination to the Agency (see Article 36) and inform the beneficiary concerned.

If the coordinator's participation is terminated without its agreement, the formal notification must be done by another beneficiary (acting on behalf of the other beneficiaries).

The notification must include:

- the reasons why;

- the opinion of the beneficiary concerned (or proof that this opinion has been requested in writing);
- the date the termination takes effect. This date must be after the notification, and
- a request for amendment (see Article 39), with a proposal for reallocation of the tasks and the estimated budget of the beneficiary concerned (see Annexes 1 and 2) and, if necessary, the addition of one or more new beneficiaries (see Article 40). If termination takes effect after the period set out in Article 3, no request for amendment must be included, unless the beneficiary concerned is the coordinator. In this case, the request for amendment must propose a new coordinator.

If this information is not given or if the Agency considers that the reasons do not justify termination, the participation will be considered to have been **terminated improperly**.

The termination will **take effect** on the day specified in the notification.

34.2.2 Effects

The beneficiary concerned must submit to the coordinator:

- (i) a technical report and
- (ii) a financial statement covering the period from the end of the last reporting period to the date when termination takes effect.

This information must be included by the coordinator in the periodic report for the next reporting period (see Article 15.3).

If the request for amendment is rejected by the Agency (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the Agreement may be terminated according to Article 34.3.1(c).

If the request for amendment is accepted by the Agency, the Agreement is **amended** to introduce the necessary changes (see Article 39).

Improper termination may lead to a reduction of the grant (see Article 27) or termination of the Agreement (see Article 34).

After termination, the concerned beneficiary's obligations (in particular Articles 15, 17, 18, Section 3 of Chapter 4, 21, 22 and 24) continue to apply.

34.3 Termination of the Agreement or of the participation of one or more beneficiaries, by the Agency

34.3.1 Conditions

The Agency may terminate the Agreement or the participation of one or more beneficiaries, if:

- (a) one or more beneficiaries do not accede to the Agreement (see Article 40);
- (b) a change to their legal, financial, technical, organisational or ownership situation [*(or those of its affiliated entities)*] is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant;
- (c) following termination of participation for one or more beneficiaries (see above), the necessary changes to the Agreement would call into question the decision awarding the grant or breach the principle of equal treatment of applicants (see Article 39);
- (d) implementation of the action is prevented by force majeure (see Article 35) or suspended by the coordinator (see Article 33.1) and either:
 - (i) resumption is impossible, or
 - (ii) the necessary changes to the Agreement would call into question the decision awarding the grant or breach the principle of equal treatment of applicants;
- (e) a beneficiary is declared bankrupt, being wound up, having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, or is subject to any other similar proceedings or procedures under national law;
- (f) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has been found guilty of professional misconduct, proven by any means;
- (g) a beneficiary does not comply with the applicable national law on taxes and social security;
- (h) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed fraud, corruption, or is involved in a criminal organisation, money laundering or any other illegal activity affecting the EU's financial interests;
- (i) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has — in the award procedure or under the Agreement — committed:
 - (i) substantial errors, irregularities, fraud or
 - (ii) serious breach of obligations, including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles;
- (j) a beneficiary has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious

breach of obligations that have a material impact on this grant (**‘extension of findings from other grants to this grant’**).

34.3.2 Procedure

Before terminating the Agreement or participation of one or more beneficiaries, the Agency will formally notify the coordinator:

- informing it of its intention to terminate and the reasons why and
- inviting it, within 30 days of receiving notification, to submit observations and — in case of Point (i.ii) above — to inform the Agency of the measures to ensure compliance with the obligations under the Agreement.

If the Agency does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify to the coordinator **confirmation** of the termination and the date it will take effect. Otherwise, it will formally notify that the procedure is not continued.

The termination will **take effect**:

- for terminations under Points (b), (c), (e), (g) and (i.ii) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (h), (i.i) and (j) above: on the day after the notification of the confirmation is received by the coordinator.

34.3.3 Effects

(a) for **termination of the Agreement**:

The coordinator must — within 60 days from when termination takes effect — submit:

- (i) a periodic report (for the last open reporting period until termination; see Article 15.3) and
- (ii) a final report (see Article 15.4).

If the Agreement is terminated for breach of the obligation to submit the reports (see Articles 15.8 and 34.3.1(l)), the coordinator may not submit any reports after termination.

If the Agency does not receive the reports within the deadline (see above), only costs which are included in an approved periodic report will be taken into account.

The Agency will **calculate** the final grant amount (see Article 5.3) and the balance (see Article 16.4) on the basis of the reports submitted. Only costs incurred until termination takes effect are eligible (see Article 6). Costs relating to contracts due for execution only after termination are not eligible.

This does not affect the Agency's right to reduce the grant (see Article 27) or to impose administrative and financial penalties (Article 29).

The beneficiaries may not claim damages due to termination by the Agency (see Article 30).

After termination, the beneficiaries' obligations (in particular Articles 15, 17, 18, Section 3 of Chapter 4, 21, 22 and 24) continue to apply.

(b) for **termination of the participation of one or more beneficiaries**:

The coordinator must — within 60 days from when termination takes effect — submit:

- (i) a request for amendment (see Article 39), with a proposal for reallocation of the tasks and estimated budget of the beneficiary concerned (see Annexes 1 and 2) and, if necessary, the addition of one or more new beneficiaries (see Article 40). If termination is notified after the period set out in Article 3, no request for amendment must be submitted unless the beneficiary concerned is the coordinator. In this case the request for amendment must propose a new coordinator.

The beneficiary concerned must submit to the coordinator:

- (i) a technical report and
- (ii) a financial statement covering the period from the end of the last reporting period to the date when termination takes effect.

This information must be included by the coordinator in the periodic report for the next reporting period (see Article 15.3).

If the request for amendment is rejected by the Agency (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the Agreement may be terminated according to Article 34.3.1(c).

If the request for amendment is accepted by the Agency, the Agreement is **amended** to introduce the necessary changes (see Article 39).

After termination, the concerned beneficiary's obligations (in particular Articles 15, 17, 18, Section 3 of Chapter 4, 21, 22 and 24) continue to apply.

SECTION 4 FORCE MAJEURE

ARTICLE 35 — FORCE MAJEURE

'Force majeure' means any situation or event that:

- prevents either party from fulfilling their obligations under the Agreement,
- was unforeseeable, exceptional situation and beyond the parties' control,
- was not due to error or negligence on their part (or on the part of third parties involved in the action), and
- proves to be inevitable in spite of exercising all due diligence.

The following cannot be invoked as force majeure:

- any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure,
- labour disputes or strikes, or
- financial difficulties.

Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

The party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.

CHAPTER 7 FINAL PROVISIONS

ARTICLE 36 — COMMUNICATION BETWEEN THE PARTIES

36.1 Form and means of communication

Communication under the Agreement (information, requests, submissions, 'formal notifications', etc.) must:

- be made in writing and
- bear the number of the Agreement.

Until the payment of the balance: all communication must be made through the electronic exchange system and using the forms and templates provided there.

After the payment of the balance: formal notifications must be made by registered post with proof of delivery ('formal notification on paper').

Communications in the electronic exchange system must be made by persons authorised according to the ‘Terms and Conditions of Use of the electronic exchange system’. For naming the authorised persons, each beneficiary must have designated — before the signature of this Agreement — a ‘Legal Entity Appointed Representative (LEAR)’. The role and tasks of the LEAR are stipulated in his/her appointment letter (see Terms and Conditions of Use of the electronic exchange system).

If the electronic exchange system is temporarily unavailable, instructions will be given on the Agency and Commission websites.

36.2 Date of communication

Communications are considered to have been made when they are sent by the sending party (i.e. on the date and time they are sent through the electronic exchange system).

Formal notifications through the **electronic** exchange system are considered to have been made when they are received by the receiving party (i.e. on the date and time of acceptance by the receiving party, as indicated by the time stamp). A formal notification that has not been accepted within 10 days after sending is considered to have been accepted.

Formal notifications **on paper** sent by **registered post** with proof of delivery (only after the payment of the balance) are considered to have been made on either:

- the delivery date registered by the postal service or
- the deadline for collection at the post office.

If the electronic exchange system is temporarily unavailable, the sending party cannot be considered in breach of its obligation to send a communication within a specified deadline.

36.3 Addresses for communication

The **electronic** exchange system must be accessed via the following URL:

[insert URL]

The Agency will formally notify the coordinator and beneficiaries in advance any changes to this URL.

Formal notifications on paper (only after the payment of the balance) addressed **to the Agency** must be sent to the following address:

Executive Agency for Small and Medium-sized Enterprises (EASME)
Unit [complete]
COV2 [complete level / room]
Place Rogier 16
B-1049 Brussels
e-mail: [complete]

Formal notifications on paper (only after the payment of the balance) addressed to **the beneficiaries** must be sent to their legal address as specified in the ‘Beneficiary Register’.

ARTICLE 37 — INTERPRETATION OF THE AGREEMENT

37.1 Precedence of the Terms and Conditions over the Annexes

The provisions in the Terms and Conditions of the Agreement take precedence over its Annexes.

Annex 2 takes precedence over Annex 1.

37.2 Privileges and immunities

[OPTION for all international organisations: Nothing in the Agreement may be interpreted as a waiver of any privileges or immunities accorded to the [insert name of international organisation(s)] by its constituent documents or international law.]

[OPTION: Not applicable]

ARTICLE 38 — CALCULATION OF PERIODS, DATES AND DEADLINES

In accordance with Regulation No 1182/71²¹, periods expressed in days, months or years are calculated from the moment the triggering event occurs.

The day during which that event occurs is not considered as falling within the period.

ARTICLE 39 — AMENDMENTS TO THE AGREEMENT

39.1 Conditions

The Agreement may be amended, unless the amendment entails changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

Amendments may be requested by any of the parties.

39.2 Procedure

The party requesting an amendment must submit a request for amendment signed in the electronic exchange system (see Article 36).

The coordinator submits and receives requests for amendment on behalf of the beneficiaries (see Annex 3).

²¹ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8/6/1971, p. 1).

If a change of coordinator is requested without its agreement, the submission must be done by another beneficiary (acting on behalf of the other beneficiaries).

The request for amendment must include:

- the reasons why;
- the appropriate supporting documents, and
- for a change of coordinator without its agreement: the opinion of the coordinator (or proof that this opinion has been requested in writing).

The Agency may request additional information.

If the party receiving the request agrees, it must sign the amendment in the electronic exchange system within 45 days of receiving notification (or any additional information the Agency has requested). If it does not agree, it must formally notify its disagreement within the same deadline. The deadline may be extended, if necessary for the assessment of the request. If no notification is received within the deadline, the request is considered to have been rejected.

An amendment **enters into force** on the day of the signature of the receiving party.

An amendment **takes effect** on the date agreed by the parties or, in the absence of such an agreement, on the date on which the amendment enters into force.

ARTICLE 40 — ACCESSION TO THE AGREEMENT

40.1 Accession of the beneficiaries mentioned in the Preamble

The other beneficiaries must accede to the Agreement by signing the Accession Form (see Annex 3) in the electronic exchange system (see Article 36), within 30 days after its entry into force (see Article 42).

They will assume the rights and obligations under the Agreement with effect from the date of its entry into force (see Article 42).

If a beneficiary does not accede to the Agreement within the above deadline, the coordinator must — within 30 days — request an amendment to make any changes necessary to ensure proper implementation of the action. This does not affect the Agency's right to terminate the Agreement (see Article 34).

40.2 Addition of new beneficiaries

In justified cases, the beneficiaries may request the addition of a new beneficiary.

For this purpose, the coordinator must submit a request for amendment in accordance with Article 39. It must include an Accession Form (see Annex 3) signed by the new beneficiary in the electronic exchange system (see Article 36).

New beneficiaries must assume the rights and obligations under the Agreement with effect from the date of their accession specified in the Accession Form (see Annex 3).

ARTICLE 41 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

41.1 Applicable law

The Agreement is governed by the applicable EU law, supplemented if necessary by the law of Belgium. *[OPTION for international organisations that do not accept application of Union law: except for [insert name(s) of the international organisations concerned]].*

[OPTION for international organisations that accept application of Union law but not Belgian law: For [insert name(s) of the international organisations concerned], the Agreement is governed by the applicable EU law, supplemented if necessary by the law of [insert name of a Member State or an EFTA country] [and, where appropriate, by the general principles governing the law of international organisations and the rules of general international law].]

41.2 Dispute settlement

If a dispute concerning the interpretation, application or validity of the Agreement cannot be settled amicably, the General Court — or, on appeal, the Court of Justice of the European Union — has sole jurisdiction. Such actions must be brought under Article 272 of the Treaty on the Functioning of the EU (TFEU).

[OPTION for non-EU beneficiaries (except beneficiaries established in an associated country with an association agreement to the COSME Programme that stipulates sole jurisdiction of the European Court of Justice): As an exception, if such a dispute is between the Agency and [insert non-EU beneficiary(ies) name(s)], the competent Belgian courts have sole jurisdiction.]

[OPTION for beneficiaries that are international organisations: As an exception, for the following beneficiaries:

- [insert name of international organisation]
 - [insert name of international organisation]
- [same for other beneficiaries that are international organisations]*

such disputes must — if they cannot be settled amicably — be referred to arbitration.

The Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of entry into force of the Agreement will apply.

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

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The appointing authority will be the Secretary-General of the Permanent Court of Arbitration following a written request submitted by either party.

The arbitration proceedings must take place in Brussels and the language used in the arbitral proceedings will be English.

The arbitral award will be binding on all parties and will not be subject to appeal.]

If a dispute concerns administrative or financial penalties, offsetting or an enforceable decision under Article 299 TFEU (see Articles 28, 29 and 30), the beneficiaries must bring action before the General Court — or, on appeal, the Court of Justice of the European Union — under Article 263 TFEU. Actions against enforceable decisions must be brought against the Commission (not against the Agency).

ARTICLE 42 — ENTRY INTO FORCE OF THE AGREEMENT

The Agreement will enter into force on the day of signature by the Agency or the coordinator, depending on which is later.

SIGNATURES

For the coordinator

[function/forename/surname]
[electronic signature]

Done in [English] on [electronic time stamp]

For the Agency

[forename/surname]
[electronic signature]

Done in [English] on [electronic time stamp]

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

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ANNEX 1

DESCRIPTION OF THE ACTION

① print format A4 landscape

MODEL ANNEX 2 COSME MGA — MULTI

ESTIMATED BUDGET FOR THE ACTION

	Estimated eligible ¹ costs (per budget category)					EU contribution			Action's estimated receipts			
	A. Direct personnel costs	B. Direct costs of subcontracting	C. Other direct costs	[D. Direct costs of fin. Support] not applicable	E. Indirect costs ²	Total costs	Reimbursement rate %	Maximum EU contribution ³	Maximum grant amount ⁴	Income generated by the action	Financial contributions given by third parties to the beneficiaries	Action's total receipts
	A.1 Personnel A.2 Natural persons under direct contract and Seconded persons		C.1 Travel C.2 Equipment C.3 Other goods and services									
Cost form ⁵	Actual	Actual	Actual	Actual	Flat-rate ⁶ 7%							
	(a)	(b)	(c)	(d)	(e) = 0,07 * ((a) + (b) + (c))	(f) = (a) + (b) + (c) + (e)	(g)	(h) = (g) * (f)	(i)	(j)	(k)	(l) = (j) + (k)
Beneficiary 1												
Affiliated entity 1a												
...												
Total Beneficiary 1												
Beneficiary 2												
Affiliated entity 2a												
...												
Total Beneficiary 2												
...												
Total Consortium							75%, 90% or 95% ⁷					

¹ See Article 6 for the eligibility conditions.

² The indirect costs claimed must be free of any amounts covered by an operating grant (received under any EU or Euratom funding programme). A beneficiary that receives an operating grant during the duration of the action cannot claim any indirect costs for the year(s) covered by the operating grant (see Article 6.2.E).

³ This is the *theoretical* amount of the EU contribution, if the reimbursement rate is applied to all the budgeted costs. This *theoretical* amount is capped by the 'maximum grant amount'.

⁴ The 'maximum grant amount' is the maximum grant amount decided by the Agency. It normally corresponds to the requested grant, but may be lower.

⁵ See Article 5 for the cost forms.

⁶ flat rate : 7% of eligible direct costs.

⁷ The reimbursement rate is applied at consortium level only (i.e. to the total costs). The reimbursement rate can be 75%, 90% or 95%.

[OPTION for Erasmus young entrepreneurs:

print format A4 landscape

MODEL ANNEX 2 COSME MGA — MULTI (Erasmus for young entrepreneurs)

ESTIMATED BUDGET FOR THE ACTION

Cost form ⁵	Estimated eligible ¹ costs (per budget category)					EU contribution			Action's estimated receipts			
	A. Direct personnel costs	B. Direct costs of subcontracting	C. Other direct costs	D. Costs of financial support to third parties	E. Indirect costs ²	Total costs	Reimbursement rate %	Maximum EU contribution ³	Maximum grant amount ⁴	Income generated by the action	Financial contributions given by third parties to the beneficiaries	Action's total receipts
	A.1 Personnel A.2 Natural persons under direct contract and Seconded persons		C.1 Travel C.2 Equipment C.3 Other goods and services									
	Actual	Actual	Actual	Unit costs ⁶	Flat-rate ⁷ 7%							
	(a)	(b)	(c)	(d)	(e) = 0,07 * ((a) + (b) + (c))	(f) = (a) + (b) + (c) + (d) + (e)	(g)	(h) = (f) * (g)	(i)	(j)	(k)	(l) = (j)+(k)
Beneficiary 1												
Affiliated entity 1a												
...												
Total Beneficiary 1												
Beneficiary 2												
Affiliated entity 2a												
...												
Total Beneficiary 2												
...												
Total Consortium							90% ⁸					

1) See Article 6 for the eligibility conditions.
 2) The indirect costs claimed must be free of any amounts covered by an operating grant (receiver under any EU or Euratom funding programme). A beneficiary that receives an operating grant during the duration of the action cannot claim any indirect costs for the year(s) covered by the operating grant (see Article 6.2.E).
 3) This is the *theoretical* maximum grant amount : max 90% of the eligible costs.
 4) The EU contribution shall not exceed 75% of the programme management costs and shall be 100% for the costs of the financial contribution for third parties (new entrepreneurs).
 5) See Article 5 for cost forms.
 6) See Annex 2a 'Additional information on the estimated budget' for the details (units, costs per unit, estimated number of units, etc)
 7) flat rate : 7% of the total of direct personnel costs, direct costs of subcontracting and other direct costs.
 8) The reimbursement rate is applied at consortium level only (i.e. to the total costs).

]

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

EASME Model Grant Agreements: COSME MGA — Multi: 5 February 2015

[OPTION for Erasmus young entrepreneurs:

ANNEX 2a

ADDITIONAL INFORMATION ON THE ESTIMATED BUDGET]

ANNEX 3

ACCESSION FORM FOR BENEFICIARIES

[Full official name of the beneficiary/new beneficiary/new coordinator (short name)] [legal form], [official registration No], established in [official address in full] [VAT number], ('the beneficiary' or 'the coordinator'), represented for the purpose of signing this Accession Form by [forename and surname, function],

hereby agrees

to become [beneficiary][coordinator] ('insert official registration no ..')

in Grant Agreement No [insert agreement number] ('the Grant Agreement')

between [full official name of the coordinator] and the Executive Agency for Small and Medium-sized Enterprises (EASME) ('the Agency'), under the power delegated by the European Commission ('the Commission')

for the action entitled [insert title of the action (insert acronym)].

[OPTION for beneficiaries/new beneficiaries: and mandates

the coordinator to submit and sign in its name and on its behalf any amendments to the Agreement, in accordance with Article 39.]

By signing this Accession Form, the beneficiary accepts the grant and agrees to *[OPTION: for new coordinators: take on the obligations and role of coordinator and to]* implement the grant in accordance with the Agreement, with all the obligations and conditions it sets out *[OPTION for new beneficiaries: as from [date] if the Agency agrees with the request for amendment]*.

SIGNATURE

For the beneficiary /new beneficiary/new coordinator

[function/forename/surname]

[electronic signature]

Done in [English] on [electronic time stamp]

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

EASME Model Grant Agreements: COSME MGA — Multi: 5 February 2015

[OPTION if the JRC participates:

ANNEX 3b

***ADMINISTRATIVE ARRANGEMENT WITH THE JOINT RESEARCH CENTRE
(JRC)]***

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landscape

MODEL ANNEX 4 COSME MGA — MULTI

FINANCIAL STATEMENT FOR [BENEFICIARY [name] / AFFILIATED ENTITY [name]]

Eligible ¹ costs (per budget category)						Receipts			EU contribution
A. Direct personnel costs	B. Direct costs of subcontracting	C. Other direct costs	[D. Direct costs of fin. Support] not applicable	E. Indirect costs ²	Total costs	Income generated by the action	Financial contributions given by third parties to the beneficiaries	Total receipts	Requested EU contribution ³
A.1 Personnel A.2 Natural persons under direct contract and Seconded persons		C.1 Travel C.2 Equipment C.3 Other goods and services							
Cost form ⁴	Actual	Actual	Actual	Flat-rate ⁵ 7%					
	(a)	(b)	(c)	(e) = 0,07 * ((a) + (b) + (c))	(f) = (a)+ (b) + (c) + (e)	(g)	(h)	(i) = (g) + (h)	(j)
Beneficiary / affiliated entity									

The beneficiary/affiliated entity hereby confirms that:
 The information provided is complete, reliable and true.
 The costs declared are eligible (see Article 6).
 The costs can be substantiated by adequate records and supporting documentation that will be produced upon request or in the context of checks, reviews, audits and investigations (see Articles 12, 13 and 17).
 For the last reporting period: that all the receipts have been declared (see Article 5.3.3).

ⓘ Please declare all eligible costs, even if they exceed the amounts indicated in the estimated budget (see Annex 2). Only amounts that were declared in your individual financial statements can be taken into account lateron, in order to replace other costs that are found to be ineligible.

¹ See Article 6 for the eligibility conditions.

² The indirect costs claimed must be free of any amounts covered by an operating grant (received under any EU or Euratom funding programme). A beneficiary that receives an operating grant during the duration of the action cannot claim any indirect costs for the year(s) covered by the operating grant (see Article 6.2.E).

³ You may request up to 100% of the total cost declared. The reimbursement rate mentioned in Article 5.1 applies only at consortium level (and will only be checked by the Agency at the payment of the balance).

⁴ See Article 5 for the cost forms.

⁵ Flat rate : 7% of eligible direct costs.

[OPTION for Erasmus young entrepreneurs

① print format A4
landscape

MODEL ANNEX 4 COSME MGA — MULTI (Erasmus for young entrepreneurs)

FINANCIAL STATEMENT FOR [BENEFICIARY [name] / AFFILIATED ENTITY [name]]

Eligible ¹ costs (per budget category)						Receipts			EU contribution	
A. Direct personnel costs	B. Direct costs of subcontracting	C. Other direct costs	D. Costs of financial support to third parties	E. Indirect costs ²	Total costs	Income generated by the action	Financial contributions given by third parties to the beneficiaries	Total receipts	Requested EU contribution ³	
A.1 Personnel A.2 Natural persons under direct contract and Seconded persons		C.1 Travel C.2 Equipment C.3 Other goods and services								
Cost form ⁴	Actual	Actual	Actual	Unit cost	Flat-rate ⁵					
					7%					
	(a)	(b)	(c)	(d)	(e) = 0,07 * ((a) + (b) + (c))	(f) = (a) + (b) + (c) + (d) + (e)	(g)	(h)	(i) = (g) + (h)	(j)
Beneficiary / affiliated entity										

The beneficiary/affiliated entity hereby confirms that:
 The information provided is complete, reliable and true.
 The costs declared are eligible (see Article 6).
 The costs can be substantiated by adequate records and supporting documentation that will be produced upon request or in the context of checks, reviews, audits and investigations (see Articles 12, 13 and 17).
 For the last reporting period: that all the receipts have been declared (see Article 5.3.3).

① Please declare all eligible costs, even if they exceed the amounts indicated in the estimated budget (see Annex 2). Only amounts that were declared in your individual financial statements can be taken into account lateron, in order to replace other costs that are found to be ineligible.

¹ See Article 6 for the eligibility conditions.

² The indirect costs claimed must be free of any amounts covered by an operating grant (received under any EU or Euratom funding programme). A beneficiary that receives an operating grant during the duration of the action cannot claim any indirect costs for the year(s) covered by the operating grant (see Article 6.2.E).

³ You may request up to 100% of the total cost declared. The reimbursement rate mentioned in Article 5.1 applies only at consortium level (and will only be checked by the Agency at the payment of the balance).

⁴ See Article 5 for the cost forms.

⁵ flat rate : 7% of the total of direct personal costs, direct costs of subcontracting and other direct costs.

]

ANNEX 5

MODEL FOR THE CERTIFICATE ON THE FIANCIAL STATEMENTS

- For options [*in italics in square brackets*]: choose the applicable option. Options not chosen should be deleted.
- For fields in [grey in square brackets]: enter the appropriate data

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TERMS OF REFERENCE FOR AN INDEPENDENT REPORT OF FACTUAL FINDINGS ON COSTS DECLARED UNDER A GRANT AGREEMENT FINANCED UNDER THE COSME PROGRAMME 1

INDEPENDENT REPORT OF FACTUAL FINDINGS ON COSTS DECLARED UNDER A GRANT AGREEMENT FINANCED UNDER THE COSME PROGRAMME 6

Terms of Reference for an Independent Report of Factual Findings on costs declared under a action financed under the COSME Programme

This document sets out the ‘**Terms of Reference (ToR)**’ under which

[*OPTION 1: [insert name of the beneficiary] (‘the Beneficiary’) [OPTION 2: [insert name of the affiliated entity] (‘the Affiliated entity’), entity affiliated to the Beneficiary [insert name of the beneficiary] (‘the Beneficiary)’]*

agrees to engage

[insert legal name of the auditor] (‘the Auditor’)

to produce an independent report of factual findings (‘the Report’) concerning the Financial Statement(s)²² drawn up by the [*Beneficiary*] [*Affiliated entity*] for the COSME Grant agreement [insert number of the grant agreement, title of the action, acronym and duration from/to] (‘the Agreement’), and

to issue a Certificate on the Financial Statements’ (‘CFS’) referred to in Article 15 of the Agreement based on the compulsory reporting template stipulated by the Agency.

The Agreement has been concluded under the COSME Programme between the Beneficiary and Executive Agency for Small and Medium-sized Enterprises (EASME (‘the Agency’), under the powers delegated by the European Commission (‘the Commission’).

The Agency is mentioned as a signatory of the Agreement with the Beneficiary only. The Agency is not a party to this engagement.

²² By which costs under the Agreement are declared (see template ‘Model Financial Statements’ in Annex 4 to the Grant Agreement).

1.1 Subject of the engagement

The coordinator must submit to the Agency the final report within 60 days following the end of the last reporting period which should include, amongst other documents, a CFS for each beneficiary and for each affiliated entity that requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs (see Article 15 of the Agreement). The CFS must cover all reporting periods of the beneficiary or affiliated entity indicated above.

The Beneficiary must submit to the coordinator the CFS for itself and for its affiliated entity(ies), if the CFS must be included in the final report according to Article 15 of the Agreement.

The CFS is composed of two separate documents:

- The Terms of Reference ('the ToR') to be signed by the *[Beneficiary]* *[Affiliated entity]* and the Auditor;
- The Auditor's Independent Report of Factual Findings ('the Report') to be issued on the Auditor's letterhead, dated, stamped and signed by the Auditor (or the competent public officer) which includes the agreed-upon procedures ('the Procedures') to be performed by the Auditor, and the standard factual findings ('the Findings') to be confirmed by the Auditor.

If the CFS must be included in the final report according to Article 15 of the Agreement, the request for payment of the balance relating to the Agreement cannot be made without the CFS. However, the payment for reimbursement of costs covered by the CFS does not preclude the Agency, the European Anti-Fraud Office and the European Court of Auditors from carrying out checks, reviews, audits and investigations in accordance with Article 17 of the Agreement.

1.2 Responsibilities

The *[Beneficiary]* *[Affiliated entity]*:

- must draw up the Financial Statement(s) for the action financed by the Agreement in compliance with the obligations under the Agreement. The Financial Statement(s) must be drawn up according to the *[Beneficiary's]* *[Affiliated entity's]* accounting and book-keeping system and the underlying accounts and records;
- must send the Financial Statement(s) to the Auditor;
- is responsible and liable for the accuracy of the Financial Statement(s);
- is responsible for the completeness and accuracy of the information provided to enable the Auditor to carry out the Procedures. It must provide the Auditor with a written representation letter supporting these statements. The written representation letter must state the period covered by the statements and must be dated;
- accepts that the Auditor cannot carry out the Procedures unless it is given full access to the *[Beneficiary's]* *[Affiliated entity's]* staff and accounting as well as any other relevant records and documentation.

The Auditor:

- *[Option 1 by default: is qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC or similar national regulations].*
- *[Option 2 if the Beneficiary or Affiliated entity has an independent Public Officer: is a competent and independent Public Officer for which the relevant national authorities have established the legal capacity to audit the Beneficiary].*

- [Option 3 if the Beneficiary or Affiliated entity is an international organisation: is an [internal] [external] auditor in accordance with the internal financial regulations and procedures of the international organisation].

The Auditor:

- must be independent from the Beneficiary [and the Affiliated entity], in particular, it must not have been involved in preparing the [Beneficiary's] [Affiliated entity's] Financial Statement(s);
- must plan work so that the Procedures may be carried out and the Findings may be assessed;
- must adhere to the Procedures laid down and the compulsory report format;
- must carry out the engagement in accordance with this ToR;
- must document matters which are important to support the Report;
- must base its Report on the evidence gathered;
- must submit the Report to the [Beneficiary] [Affiliated entity].

The Commission sets out the Procedures to be carried out by the Auditor. The Auditor is not responsible for their suitability or pertinence. As this engagement is not an assurance engagement, the Auditor does not provide an audit opinion or a statement of assurance.

1.3 Applicable Standards

The Auditor must comply with these Terms of Reference and with²³:

- the International Standard on Related Services ('ISRS') 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as issued by the International Federation of Accountants (IFAC);
- the *Code of Ethics for Professional Accountants* issued by the IFAC. Although ISRS 4400 states that independence is not a requirement for engagements to carry out agreed-upon procedures, the Agency requires that the Auditor also complies with the Code's independence requirements.

The Auditor's Report must state that there is no conflict of interests in establishing this Report between the Auditor and the Beneficiary [and the Affiliated entity], and must specify - if the service is invoiced - the total fee paid to the Auditor for providing the Report.

1.4 Reporting

The Report must be written in the language of the Agreement (see Article 15 of the Agreement).

Under Article 17 of the Agreement, the Agency, the European Anti-Fraud Office and the Court of Auditors have the right to audit any work that is carried out under the action and for which costs are declared from the European Union budget. This includes work related to this engagement. The Auditor must provide access to all working papers (e.g. recalculation of hourly rates, verification of the time declared for the action) related to this assignment if the Agency, the European Anti-Fraud Office or the European Court of Auditors requests them.

1.5 Timing

The Report must be provided by [dd Month yyyy].

²³ Supreme Audit Institutions applying INTOSAI-standards may carry out the Procedures according to the corresponding International Standards of Supreme Audit Institutions and code of ethics issued by INTOSAI instead of the International Standard on Related Services ('ISRS') 4400 and the Code of Ethics for Professional Accountants issued by the IFAC.

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

1.6 Other terms

[The [Beneficiary] [Affiliated entity] and the Auditor can use this section to agree other specific terms, such as the Auditor’s fees, liability, applicable law, etc. Those specific terms must not contradict the terms specified above.]

[legal name of the Auditor]	[legal name of the [Beneficiary][Affiliated entity]]
[name & function of authorised representative]	[name & function of authorised representative]
[dd Month yyyy]	[dd Month yyyy]
Signature of the Auditor	Signature of the [Beneficiary][Affiliated entity]

Independent Report of Factual Findings on costs declared under COSME Programme

(To be printed on the Auditor's letterhead)

To

[name of contact person(s)], [Position]
[[Beneficiary's] [Affiliated entity's] name]
[Address]
[dd Month yyyy]

Dear [Name of contact person(s)],

As agreed under the terms of reference dated [dd Month yyyy]

with [OPTION 1: [insert name of the beneficiary] ('the Beneficiary')] [OPTION 2: [insert name of the affiliated entity] ('the Affiliated entity'), third party linked to the Beneficiary [insert name of the beneficiary] ('the Beneficiary')],

we

[name of the auditor] ('the Auditor'),
established at
[full address/city/state/province/country],
represented by
[name and function of an authorised representative],

have carried out the procedures agreed with you regarding the costs declared in the Financial Statement(s)²⁴ of the [Beneficiary] [Affiliated entity] concerning the grant agreement [insert grant agreement reference: number, title of the action and acronym] ('the Agreement'),

with a total cost declared of [total amount] EUR,

and a total of actual costs and 'direct personnel costs declared as unit costs calculated in accordance with the [Beneficiary's] [Affiliated entity's] usual cost accounting practices' declared of

[sum of total actual costs and total direct personnel costs declared as unit costs calculated in accordance with the [Beneficiary's] [Affiliated entity's] usual cost accounting practices] EUR

and **hereby provide our Independent Report of Factual Findings ('the Report')** using the compulsory report format agreed with you.

The Report

Our engagement was carried out in accordance with the terms of reference ('the ToR') appended to this Report. The Report includes the agreed-upon procedures ('the Procedures') carried out and the standard factual findings ('the Findings') examined.

²⁴ By which the beneficiary declares costs under the Grant Agreement (see template 'Model Financial Statement' in Annex 4 to the Grant Agreement).

The Procedures were carried out solely to assist the Agency in evaluating whether the [beneficiary's] [Affiliated entity's] costs in the accompanying Financial Statement(s) were declared in accordance with the Agreement. The Agency draws its own conclusions from the Report and any additional information it may require.

The scope of the Procedures was defined by the Commission. Therefore, the Auditor is not responsible for their suitability or pertinence. Since the Procedures carried out constitute neither an audit nor a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, the Auditor does not give a statement of assurance on the Financial Statements.

Had the Auditor carried out additional procedures or an audit of the [Beneficiary's] [Affiliated entity's] Financial Statements in accordance with International Standards on Auditing or International Standards on Review Engagements, other matters might have come to its attention and would have been included in the Report.

Not applicable Findings

We examined the Financial Statement(s) stated above and considered the following Findings not applicable:

Explanation (to be removed from the Report):

If a Finding was not applicable, it must be marked as 'N.A.' ('Not applicable') in the corresponding row on the right-hand column of the table and means that the Finding did not have to be corroborated by the Auditor and the related Procedure(s) did not have to be carried out.

The reasons of the non-application of a certain Finding must be obvious i.e.

- i) if no cost was declared under a certain category then the related Finding(s) and Procedure(s) are not applicable;*
- ii) if the condition set to apply certain Procedure(s) are not met the related Finding(s) and those Procedure(s) are not applicable. For instance, for Beneficiarys with accounts established in a currency other than euro' the Procedure and Finding related to 'beneficiarys with accounts established in euro' are not applicable. Similarly, if no additional remuneration is paid, the related Finding(s) and Procedure(s) for additional remuneration are not applicable.*

List here all Findings considered not applicable for the present engagement and explain the reasons of the non-applicability.

....

Exceptions

Apart from the exceptions listed below, the [Beneficiary] [Affiliated entity] provided the Auditor all the documentation and accounting information needed by the Auditor to carry out the requested Procedures and evaluate the Findings.

Explanation (to be removed from the Report):

- If the Auditor was not able to successfully complete a procedure requested, it must be marked as 'E' ('Exception') in the corresponding row on the right-hand column of the table. The reason such as the inability to reconcile key information or the unavailability of data that prevents the Auditor from carrying out the Procedure must be indicated below.*
- If the Auditor cannot corroborate a standard finding after having carried out the corresponding procedure, it must also be marked as 'E' ('Exception') and, where possible,*

the reasons why the Finding was not fulfilled and its possible impact must be explained here below.

List here any exceptions and add any information on the cause and possible consequences of each exception, if known. If the exception is quantifiable, include the corresponding amount.

....

Example (to be removed from the Report):

1. *The beneficiary was unable to substantiate the Finding number 1 on ... because*
2. *Finding number 30 was not fulfilled because the methodology used by the beneficiary to calculate unit costs was different from the one approved by the Commission. The differences were as follows: ...*
3. *After carrying out the agreed procedures to confirm the Finding number 31, the Auditor found a difference of _____ EUR. The difference can be explained by ...*

Further Remarks

In addition to reporting on the results of the specific procedures carried out, the Auditor would like to make the following general remarks:

Example (to be removed from the Report):

1. *Regarding Finding number 8 the conditions for additional remuneration were considered as fulfilled because ...*
2. *In order to be able to confirm the Finding number 15 we carried out the following additional procedures:*

Use of this Report

This Report may be used only for the purpose described in the above objective. It was prepared solely for the confidential use of the [Beneficiary] [Affiliated entity] and the Agency, and only to be submitted to the Agency in connection with the requirements set out in Article 15 of the Agreement. The Report may not be used by the [Beneficiary] [Affiliated entity] or by the Agency for any other purpose, nor may it be distributed to any other parties. The Agency may only disclose the Report to authorised parties, in particular to the European Anti-Fraud Office (OLAF) and the European Court of Auditors.

This Report relates only to the Financial Statement(s) submitted to the Agency by the [Beneficiary] [Affiliated entity] for the Agreement. Therefore, it does not extend to any other of the [Beneficiary's] [Affiliated entity's] Financial Statement(s).

There was no conflict of interest²⁵ between the Auditor and the Beneficiary [and Affiliated entity] in establishing this Report. The total fee paid to the Auditor for providing the Report was EUR [] (including EUR [] of deductible VAT).

²⁵ A conflict of interest arises when the Auditor's objectivity to establish the certificate is compromised in fact or in appearance when the Auditor for instance:

- was involved in the preparation of the Financial Statements;
- stands to benefit directly should the certificate be accepted;
- has a close relationship with any person representing the beneficiary;
- is a director, trustee or partner of the beneficiary; or

Grant Agreement number: [insert number] [insert acronym] [insert call identifier]

EASME Model Grant Agreements: COSME MGA — Multi: 5 February 2015

We look forward to discussing our Report with you and would be pleased to provide any further information or assistance.

[legal name of the Auditor]

[name and function of an authorised representative]

[dd Month yyyy]

Signature of the Auditor

- is in any other situation that compromises his or her independence or ability to establish the certificate impartially.

Agreed-upon procedures to be performed and standard factual findings to be confirmed by the Auditor

The European Commission reserves the right to i) provide the auditor with additional guidance regarding the procedures to be followed or the facts to be ascertained and the way in which to present them (this may include sample coverage and findings) or to ii) change the procedures, by notifying the Beneficiary in writing. The procedures carried out by the auditor to confirm the standard factual finding are listed in the table below.

If this certificate relates to an Affiliated entity, any reference here below to ‘the Beneficiary’ is to be considered as a reference to ‘the Affiliated entity’.

The ‘result’ column has three different options: ‘C’, ‘E’ and ‘N.A.’:

- ‘C’ stands for ‘confirmed’ and means that the auditor can confirm the ‘standard factual finding’ and, therefore, there is no exception to be reported.
- ‘E’ stands for ‘exception’ and means that the Auditor carried out the procedures but cannot confirm the ‘standard factual finding’, or that the Auditor was not able to carry out a specific procedure (e.g. because it was impossible to reconcile key information or data were unavailable),
- ‘N.A.’ stands for ‘not applicable’ and means that the Finding did not have to be examined by the Auditor and the related Procedure(s) did not have to be carried out. The reasons of the non-application of a certain Finding must be obvious i.e. i) if no cost was declared under a certain category then the related Finding(s) and Procedure(s) are not applicable; ii) if the condition set to apply certain Procedure(s) are not met then the related Finding(s) and Procedure(s) are not applicable. For instance, for ‘Beneficiarys with accounts established in a currency other than the euro’ the Procedure related to ‘beneficiarys with accounts established in euro’ is not applicable. Similarly, if no additional remuneration is paid, the related Finding(s) and Procedure(s) for additional remuneration are not applicable.

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
A	ACTUAL PERSONNEL COSTS AND UNIT COSTS CALCULATED BY THE BENEFICIARY IN ACCORDANCE WITH ITS USUAL COST ACCOUNTING PRACTICE		
	<p>The Auditor draws a sample of persons whose costs were declared in the Financial Statement(s) to carry out the procedures indicated in the consecutive points of this section A.</p> <p><i>(The sample should be selected randomly so that it is representative. Full coverage is required if there are fewer than 10 people (including employees, natural persons working under a direct contract and personnel seconded by a third party), otherwise the sample should have a minimum of 10 people, or 10% of the total, whichever number is the highest)</i></p>		

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	The Auditor sampled [] people out of the total of [] people.		
A.1	<p>PERSONNEL COSTS</p> <p><u>For the persons included in the sample and working under an employment contract or equivalent act (general procedures for individual actual personnel costs and personnel costs declared as unit costs)</u></p> <p>To confirm standard factual findings 1-5 listed in the next column, the Auditor reviewed following information/documents provided by the Beneficiary:</p> <ul style="list-style-type: none"> ○ a list of the persons included in the sample indicating the period(s) during which they worked for the action, their position (classification or category) and type of contract; ○ the payslips of the employees included in the sample; ○ reconciliation of the personnel costs declared in the Financial Statement(s) with the accounting system (project accounting and general ledger) and payroll system; ○ information concerning the employment status and employment conditions of personnel included in the sample, in particular their employment contracts or equivalent; ○ the Beneficiary’s usual policy regarding payroll matters (e.g. salary policy, overtime policy, variable pay); ○ applicable national law on taxes, labour and social security and ○ any other document that supports the personnel costs declared. <p>The Auditor also verified the eligibility of all components of the retribution (see Article 5 SGA)</p>	<p>1) The employees were i) directly hired by the Beneficiary in accordance with its national legislation, ii) under the Beneficiary’s sole technical supervision and responsibility and iii) remunerated in accordance with the Beneficiary’s usual practices.</p> <p>2) Personnel costs were recorded in the Beneficiary's accounts/payroll system.</p> <p>3) Costs were adequately supported and reconciled with the accounts and payroll records.</p> <p>4) Personnel costs did not contain any ineligible elements.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	and recalculated the personnel costs for employees included in the sample.	5) There were no discrepancies between the personnel costs charged to the action and the costs recalculated by the Auditor.	
	<p><i>Further procedures if 'additional remuneration' is paid</i></p> <p>To confirm standard factual findings 6-9 listed in the next column, the Auditor:</p> <ul style="list-style-type: none"> ○ reviewed relevant documents provided by the Beneficiary (legal form, legal/statutory obligations, the Beneficiary's usual policy on additional remuneration, criteria used for its calculation...); ○ recalculated the amount of additional remuneration eligible for the action based on the supporting documents received (full-time or part-time work, exclusive or non-exclusive dedication to the action, etc.) to arrive at the applicable FTE/year and pro-rata rate (see data collected in the course of carrying out the procedures under A.2 'Productive hours' and A.4 'Time recording system'). <p><i>IF ANY PART OF THE REMUNERATION PAID TO THE EMPLOYEE IS NOT MANDATORY ACCORDING TO THE NATIONAL LAW OR THE EMPLOYMENT CONTRACT ("ADDITIONAL REMUNERATION") AND IS ELIGIBLE UNDER THE PROVISIONS OF ARTICLE 5.2.A.1, THIS CAN BE CHARGED AS ELIGIBLE COST TO THE ACTION UP TO THE FOLLOWING AMOUNT:</i></p> <p><i>(A) IF THE PERSON WORKS FULL TIME AND EXCLUSIVELY ON THE ACTION DURING THE FULL YEAR: UP TO EUR 8 000/YEAR;</i></p> <p><i>(B) IF THE PERSON WORKS EXCLUSIVELY ON THE ACTION BUT NOT FULL-TIME OR NOT FOR THE FULL YEAR: UP TO THE CORRESPONDING PRO-RATA AMOUNT OF EUR 8 000, OR</i></p> <p><i>(C) IF THE PERSON DOES NOT WORK EXCLUSIVELY ON THE ACTION: UP TO A PRO-RATA AMOUNT</i></p>	<p>6) The Beneficiary paying "additional remuneration" was a non-profit legal entity.</p> <p>7) The amount of additional remuneration paid corresponded to the Beneficiary's usual remuneration practices and was consistently paid whenever the same kind of work or expertise was required.</p> <p>8) The criteria used to calculate the additional remuneration were objective and generally applied by the Beneficiary regardless of the source of funding used.</p> <p>9) The amount of additional remuneration included in the personnel costs charged to the action was capped at EUR 8,000 per FTE/year (up to the</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<i>CALCULATED IN ACCORDANCE TO ARTICLE 5.2.A.1.</i>	equivalent pro-rata amount if the person did not work on the action full-time during the year or did not work exclusively on the action).	
	<p><i>Additional procedures in case “unit costs calculated by the Beneficiary in accordance with its usual cost accounting practices” is applied:</i></p> <p>Apart from carrying out the procedures indicated above to confirm standard factual findings 1-5 and, if applicable, also 6-9, the Auditor carried out following procedures to confirm standard factual findings 10-13 listed in the next column:</p> <ul style="list-style-type: none"> ○ obtained a description of the Beneficiary's usual cost accounting practice to calculate unit costs; ○ reviewed whether the Beneficiary's usual cost accounting practice was applied for the Financial Statements subject of the present CFS; ○ verified the employees included in the sample were charged under the correct category (in accordance with the criteria used by the Beneficiary to establish personnel categories) by reviewing the contract/HR-record or analytical accounting records; ○ verified that there is no difference between the total amount of personnel costs used in calculating the cost per unit and the total amount of personnel costs recorded in the statutory accounts; ○ verified whether actual personnel costs were adjusted on the basis of budgeted or estimated elements and, if so, verified whether those elements used are actually relevant for the calculation, objective and supported by documents. 	10) The personnel costs included in the Financial Statement were calculated in accordance with the Beneficiary's usual cost accounting practice. This methodology was consistently used in all COSME actions.	
		11) The employees were charged under the correct category.	
		12) Total personnel costs used in calculating the unit costs were consistent with the expenses recorded in the statutory accounts.	
		13) Any estimated or budgeted element used by the Beneficiary in its unit-cost calculation were relevant for calculating personnel costs and corresponded to objective and verifiable information.	
	For natural persons included in the sample and working with the Beneficiary under a direct	14) The natural persons reported to	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><u>contract other than an employment contract, such as consultants (no subcontractors).</u></p> <p>To confirm standard factual findings 14-18 listed in the next column the Auditor reviewed following information/documents provided by the Beneficiary:</p> <ul style="list-style-type: none"> ○ the contracts, especially the cost, contract duration, work description, place of work, ownership of the results and reporting obligations to the Beneficiary; ○ the employment conditions of staff in the same category to compare costs and; ○ any other document that supports the costs declared and its registration (e.g. invoices, accounting records, etc.). 	<p>the Beneficiary (worked under the Beneficiary’s instructions).</p>	
		<p>15) They worked on the Beneficiary’s premises (unless otherwise agreed with the Beneficiary).</p>	
		<p>16) The results of work carried out belong to the Beneficiary.</p>	
		<p>17) Their costs were not significantly different from those for staff who performed similar tasks under an employment contract with the Beneficiary.</p>	
		<p>18) The costs were supported by audit evidence and registered in the accounts.</p>	
	<p><u>For personnel seconded by a third party and included in the sample (not subcontractors)</u></p> <p>To confirm standard factual findings 19-22 listed in the next column, the Auditor reviewed following information/documents provided by the Beneficiary:</p> <ul style="list-style-type: none"> ○ their secondment contract(s) notably regarding costs, duration, work description, place of work and ownership of the results; ○ if there is reimbursement by the Beneficiary to the third party for the resource made 	<p>19) Seconded personnel reported to the Beneficiary and worked on the Beneficiary’s premises (unless otherwise agreed with the Beneficiary).</p>	
		<p>20) The results of work carried out belong to the Beneficiary.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>available_(in-kind contribution against payment): any documentation that supports the costs declared (e.g. contract, invoice, bank payment, and proof of registration in its accounting/payroll, etc.) and reconciliation of the Financial Statement(s) with the accounting system (project accounting and general ledger) as well as any proof that the amount invoiced by the third party did not include any profit.</p> <ul style="list-style-type: none"> ○ if there is no reimbursement by the Beneficiary to the third party for the resource made available (in-kind contribution free of charge): a proof of the actual cost borne by the Third Party for the resource made available free of charge to the Beneficiary such as a statement of costs incurred by the and proof of the registration in the Third Party's accounting/payroll,; ○ any other document that supports the costs declared (e.g. invoices, etc.). 	<p><i>If personnel is seconded against payment:</i></p> <p>21) The costs declared were supported with documentation and recorded in the Beneficiary's accounts. The third party did not include any profit.</p> <p><i>If personnel is seconded free of charge:</i></p> <p>22) The costs declared did not exceed the third party's cost as recorded in the accounts of the third party and were supported with documentation.</p>	
A.2	<p>PRODUCTIVE HOURS</p> <p>To confirm standard factual findings 23-28 listed in the next column, the Auditor reviewed relevant documents, especially national legislation, labour agreements and contracts and time records of the persons included in the sample, to verify that:</p> <ul style="list-style-type: none"> ○ the annual productive hours applied were calculated in accordance with one of the methods described below, ○ the full-time equivalent (FTEs) ratios for employees not working full-time were correctly calculated. <p>If the Beneficiary applied method B, the auditor verified that the correctness in which the total number of hours worked was calculated and that the contracts specified the annual workable</p>	<p>23) The Beneficiary applied method [<i>choose one option and delete the others</i>]</p> <p>[A: 1720 hours]</p> <p>[B: the 'total number of hours worked']</p> <p>[C: 'annual productive hours' used correspond to usual accounting practices]</p> <p>24) Productive hours were calculated annually.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>hours.</p> <p>If the Beneficiary applied method C, the auditor verified that the ‘annual productive hours’ applied when calculating the hourly rate were equivalent to at least 90 % of the ‘standard annual workable hours’. The Auditor can only do this if the calculation of the standard annual workable hours can be supported by records, such as national legislation, labour agreements, and contracts.</p> <p><i>BENEFICIARY'S PRODUCTIVE HOURS' FOR PERSONS WORKING FULL TIME SHALL BE ONE OF THE FOLLOWING METHODS:</i></p> <p><i>A. 1720 ANNUAL PRODUCTIVE HOURS (PRO-RATA FOR PERSONS NOT WORKING FULL-TIME)</i></p> <p><i>B. THE TOTAL NUMBER OF HOURS WORKED BY THE PERSON FOR THE BENEFICIARY IN THE YEAR (THIS METHOD IS ALSO REFERRED TO AS ‘TOTAL NUMBER OF HOURS WORKED’ IN THE NEXT COLUMN). THE CALCULATION OF THE TOTAL NUMBER OF HOURS WORKED WAS DONE AS FOLLOWS: ANNUAL WORKABLE HOURS OF THE PERSON ACCORDING TO THE EMPLOYMENT CONTRACT, APPLICABLE LABOUR AGREEMENT OR NATIONAL LAW PLUS OVERTIME WORKED MINUS ABSENCES (SUCH AS SICK LEAVE OR SPECIAL LEAVE).</i></p> <p><i>C. THE STANDARD NUMBER OF ANNUAL HOURS GENERALLY APPLIED BY THE BENEFICIARY FOR ITS PERSONNEL IN ACCORDANCE WITH ITS USUAL COST ACCOUNTING PRACTICES (THIS METHOD IS ALSO REFERRED TO AS ‘TOTAL ANNUAL PRODUCTIVE HOURS’ IN THE NEXT COLUMN). THIS NUMBER MUST BE AT LEAST 90% OF THE STANDARD ANNUAL WORKABLE HOURS.</i></p> <p><i>‘ANNUAL WORKABLE HOURS’ MEANS THE PERIOD DURING WHICH THE PERSONNEL MUST BE WORKING, AT THE EMPLOYER’S DISPOSAL AND CARRYING OUT HIS/HER ACTIVITY OR DUTIES UNDER THE EMPLOYMENT CONTRACT, APPLICABLE COLLECTIVE LABOUR AGREEMENT OR NATIONAL WORKING TIME LEGISLATION.</i></p>	<p>25) For employees not working full-time the full-time equivalent (FTE) ratio was correctly applied.</p> <p><i>If the Beneficiary applied method B.</i></p> <p>26) The calculation of the number of ‘annual workable hours’, overtime and absences was verifiable based on the documents provided by the Beneficiary.</p> <p><i>If the Beneficiary applied method C.</i></p> <p>27) The calculation of the number of ‘standard annual workable hours’ was verifiable based on the documents provided by the Beneficiary.</p> <p>28) The ‘annual productive hours’ used for calculating the hourly rate were consistent with the usual cost accounting practices of the Beneficiary and were equivalent to at least 90 % of the ‘annual workable hours’.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
A.3	<p>HOURLY PERSONNEL RATES</p> <p><u>I) For unit costs calculated in accordance to the Beneficiary's usual cost accounting practice (unit costs):</u></p> <p>If the Beneficiary has a "Certificate on Methodology to calculate unit costs " (CoMUC) approved by the Commission, the Beneficiary provides the Auditor with a description of the approved methodology and the Commission's letter of acceptance. The Auditor verified that the Beneficiary has indeed used the methodology approved. If so, no further verification is necessary.</p> <p>If the Beneficiary does not have a "Certificate on Methodology" (CoMUC) approved by the Commission, or if the methodology approved was not applied, then the Auditor:</p> <ul style="list-style-type: none"> ○ reviewed the documentation provided by the Beneficiary, including manuals and internal guidelines that explain how to calculate hourly rates; ○ recalculated the unit costs (hourly rates) of staff included in the sample following the results of the procedures carried out in A.1 and A.2. <p><u>II) For individual hourly rates:</u></p> <p>The Auditor:</p> <ul style="list-style-type: none"> ○ reviewed the documentation provided by the Beneficiary, including manuals and internal guidelines that explain how to calculate hourly rates; ○ recalculated the hourly rates of staff included in the sample following the results of the procedures carried out in A.1 and A.2. 	<p>29) The Beneficiary applied [choose one option and delete the other]:</p> <p>[Option I: "Unit costs (hourly rates) were calculated in accordance with the Beneficiary's usual cost accounting practices"]</p> <p>[Option II: Individual hourly rates were applied]</p> <p><i>For option I concerning unit costs and if the Beneficiary applies the methodology approved by the Commission (CoMUC):</i></p> <p>30) The Beneficiary used the Commission-approved methodology to calculate hourly rates. It corresponded to the organisation's usual cost accounting practices and was applied consistently for all activities irrespective of the source of funding.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><u>“UNIT COSTS CALCULATED BY THE BENEFICIARY IN ACCORDANCE WITH ITS USUAL COST ACCOUNTING PRACTICES”:</u> <i>IT IS CALCULATED BY DIVIDING THE TOTAL AMOUNT OF PERSONNEL COSTS OF THE CATEGORY TO WHICH THE EMPLOYEE BELONGS VERIFIED IN LINE WITH PROCEDURE A.1 BY THE NUMBER OF FTE AND THE ANNUAL TOTAL PRODUCTIVE HOURS OF THE SAME CATEGORY CALCULATED BY THE BENEFICIARY IN ACCORDANCE WITH PROCEDURE A.2.</i></p> <p><u>HOURLY RATE FOR INDIVIDUAL ACTUAL PERSONAL COSTS:</u> <i>IT IS CALCULATED BY DIVIDING THE TOTAL AMOUNT OF PERSONNEL COSTS OF AN EMPLOYEE VERIFIED IN LINE WITH PROCEDURE A.1 BY THE NUMBER OF ANNUAL PRODUCTIVE HOURS VERIFIED IN LINE WITH PROCEDURE A.2.</i></p>	<p><i>For option I concerning unit costs and if the Beneficiary applies a methodology not approved by the Commission:</i></p> <p>31) The unit costs re-calculated by the Auditor were the same as the rates applied by the Beneficiary.</p>	
A.4	<p>TIME RECORDING SYSTEM</p> <p>To verify that the time recording system ensures the fulfilment of all minimum requirements and that the hours declared for the action were correct, accurate and properly authorised and supported by documentation, the Auditor made the following checks for the persons included in the sample that declare time as worked for the action on the basis of time records:</p> <ul style="list-style-type: none"> ○ description of the time recording system provided by the Beneficiary (registration, authorisation, processing in the HR-system); ○ its actual implementation; ○ time records were signed at least monthly by the employees (on paper or electronically) and authorised by the project manager or another manager; 	<p>33) All persons recorded their time dedicated to the action on a daily/ weekly/ monthly basis using a paper/computer-based system. <i>(delete the answers that are not applicable)</i></p> <p>34) Their time-records were authorised at least monthly by the project manager or other superior.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<ul style="list-style-type: none"> ○ the hours declared were worked within the project period; ○ there were no hours declared as worked for the action if HR-records showed absence due to holidays or sickness (further cross-checks with travels are carried out in B.1 below) ; ○ the hours charged to the action matched those in the time recording system. <p><i>ONLY THE HOURS WORKED ON THE ACTION CAN BE CHARGED. ALL WORKING TIME TO BE CHARGED SHOULD BE RECORDED THROUGHOUT THE DURATION OF THE PROJECT, ADEQUATELY SUPPORTED BY EVIDENCE OF THEIR REALITY AND RELIABILITY (SEE SPECIFIC PROVISIONS BELOW FOR PERSONS WORKING EXCLUSIVELY FOR THE ACTION WITHOUT TIME RECORDS).</i></p> <p><u>If the persons are working exclusively for the action and without time records</u> For the persons selected that worked exclusively for the action without time records, the Auditor verified evidence available demonstrating that they were in reality exclusively dedicated to the action and that the Beneficiary signed a declaration confirming that they have worked exclusively for the action.</p>	<p>35) Hours declared were worked within the project period and were consistent with the presences/absences recorded in HR-records.</p> <p>36) There were no discrepancies between the number of hours charged to the action and the number of hours recorded.</p> <p>37) The exclusive dedication is supported by a declaration signed by the Beneficiary's and by any other evidence gathered.</p>	
B	COSTS OF SUBCONTRACTING		
B.1	<p>The Auditor obtained the detail/breakdown of subcontracting costs and sampled [redacted] cost items selected randomly (<i>full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is highest</i>).</p> <p>To confirm standard factual findings 38-42 listed in the next column, the Auditor reviewed the</p>	<p>38) The use of claimed subcontracting costs was foreseen in Annex 1 and costs were declared in the Financial Statements under the subcontracting category.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>following for the items included in the sample:</p> <ul style="list-style-type: none"> ○ the use of subcontractors was foreseen in Annex 1; ○ subcontracting costs were declared in the subcontracting category of the Financial Statement; ○ supporting documents on the selection and award procedure were followed; ○ the Beneficiary ensured best value for money (key elements to appreciate the respect of this principle are the award of the subcontract to the bid offering best price-quality ratio, under conditions of transparency and equal treatment. In case an existing framework contract was used the Beneficiary ensured it was established on the basis of the principle of best value for money under conditions of transparency and equal treatment). <p>In particular,</p> <ol style="list-style-type: none"> i. if the Beneficiary acted as a contracting authority within the meaning of Directive 2004/18/EC or of Directive 2004/17/EC, the Auditor verified that the applicable national law on public procurement was followed and that the subcontracting complied with the Terms and Conditions of the Agreement. ii. if the Beneficiary did not fall under the above-mentioned category the Auditor verified that the Beneficiary followed their usual procurement rules and respected the Terms and Conditions of the Agreement.. <p>For the items included in the sample the Auditor also verified that:</p> <ul style="list-style-type: none"> ○ the subcontracts were not awarded to other Beneficiarys in the consortium; ○ there were signed agreements between the Beneficiary and the subcontractor; ○ there was evidence that the services were provided by subcontractor; 	<p>39) There were documents of requests to different providers, different offers and assessment of the offers before selection of the provider in line with internal procedures and procurement rules. Subcontracts were awarded in accordance with the principle of best value for money.</p> <p><i>(When different offers were not collected the Auditor explains the reasons provided by the Beneficiary under the caption “Exceptions” of the Report. The Commission will analyse this information to evaluate whether these costs might be accepted as eligible)</i></p> <p>40) The subcontracts were not awarded to other Beneficiarys of the consortium.</p> <p>41) All subcontracts were supported by signed agreements between the Beneficiary and the subcontractor.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
		42) There was evidence that the services were provided by the subcontractors.	
C	COSTS OF PROVIDING FINANCIAL SUPPORT TO THIRD PARTIES		
C.1	<p>The Auditor obtained the detail/breakdown of the costs of providing financial support to third parties and sampled [] cost items selected randomly <i>(full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is highest).</i></p> <p>The Auditor verified that the following minimum conditions were met:</p> <ul style="list-style-type: none"> a) the maximum amount of financial support for each third party did not exceed EUR 60 000, unless explicitly mentioned in Annex 1; b) the financial support to third parties was agreed in Annex 1 of the Agreement and the other provisions on financial support to third parties included in Annex 1 were respected. 	43) All minimum conditions were met	
D	OTHER ACTUAL DIRECT COSTS		
D.1	<p>COSTS OF TRAVEL AND RELATED SUBSISTENCE ALLOWANCES</p> <p>The Auditor sampled [] cost items selected randomly <i>(full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is the highest).</i></p> <p>The Auditor inspected the sample and verified that:</p> <ul style="list-style-type: none"> o travel and subsistence costs were consistent with the Beneficiary 's usual policy for travel. In this context, the Beneficiary provided evidence of its normal policy for travel costs (e.g. use of first class tickets, reimbursement by the Beneficiary on the basis of actual costs, a lump sum or per diem) to enable the Auditor to compare the travel costs 	44) Costs were incurred, approved and reimbursed in line with the Beneficiary 's usual policy for travels.	
		45) There was a link between the trip and the action.	
		46) The supporting documents	
		were consistent with each other	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>charged with this policy;</p> <ul style="list-style-type: none"> ○ travel costs are correctly identified and allocated to the action (e.g. trips are directly linked to the action) by reviewing relevant supporting documents such as minutes of meetings, workshops or conferences, their registration in the correct project account, their consistency with time records or with the dates/duration of the workshop/conference; ○ no ineligible costs or excessive or reckless expenditure was declared. 	<p>regarding subject of the trip, dates, duration and reconciled with time records and accounting.</p> <p>47) No ineligible costs or excessive or reckless expenditure was declared.</p>	
D.2	<p>DEPRECIATION COSTS FOR EQUIPMENT, INFRASTRUCTURE OR OTHER ASSETS</p> <p>The Auditor sampled [redacted] cost items selected randomly (<i>full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is the highest</i>).</p> <p>For “equipment, infrastructure or other assets” [from now on called “asset(s)”] selected in the sample the Auditor verified that:</p> <ul style="list-style-type: none"> ○ the assets were acquired in conformity with the Beneficiary's internal guidelines and procedures; ○ they were correctly allocated to the action (with supporting documents such as delivery note invoice or any other proof demonstrating the link to the action) ○ they were entered in the accounting system; ○ the extent to which the assets were used for the action (as a percentage) was supported by reliable documentation (e.g. usage overview table); <p>The Auditor recalculated the depreciation costs and verified that they were in line with the applicable rules in the Beneficiary’s country and with the Beneficiary’s usual accounting policy</p>	<p>48) Procurement rules, principles and guides were followed.</p> <p>49) There was a link between the grant agreement and the asset charged to the action.</p> <p>50) The asset charged to the action was traceable to the accounting records and the underlying documents.</p> <p>51) The depreciation method used to charge the asset to the action was in line with the applicable rules of the Beneficiary's country and the Beneficiary's usual accounting policy.</p> <p>52) The amount charged corresponded to the actual usage for the action.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>(e.g. depreciation calculated on the acquisition value).</p> <p>The Auditor verified that no ineligible costs such as deductible VAT, exchange rate losses, excessive or reckless expenditure were declared (see Article 5 SGA).</p>	53) No ineligible costs or excessive or reckless expenditure were declared.	
D.3	<p>COSTS OF OTHER GOODS AND SERVICES</p> <p>The Auditor sampled [redacted] cost items selected randomly (<i>full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is highest</i>).</p> <p>For the purchase of goods, works or services included in the sample the Auditor verified that:</p> <ul style="list-style-type: none"> ○ the contracts did not cover tasks described in Annex 1; ○ they were correctly identified, allocated to the proper action, entered in the accounting system (traceable to underlying documents such as purchase orders, invoices and accounting); ○ the goods were not placed in the inventory of durable equipment; ○ the costs charged to the action were accounted in line with the Beneficiary's usual accounting practices; ○ no ineligible costs or excessive or reckless expenditure were declared (see Article 5 SGA). <p>In addition, the Auditor verified that these goods and services were acquired in conformity with the Beneficiary 's internal guidelines and procedures, in particular:</p>	<p>54) Contracts for works or services did not cover tasks described in Annex 1.</p> <p>55) Costs were allocated to the correct action and the goods were not placed in the inventory of durable equipment.</p> <p>56) The costs were charged in line with the Beneficiary's accounting policy and were adequately supported.</p> <p>57) No ineligible costs or excessive or reckless expenditure were declared. For internal invoices/charges only the cost element was charged, without any mark-ups.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<ul style="list-style-type: none"> ○ if Beneficiary acted as a contracting authority within the meaning of Directive 2004/18/EC or of Directive 2004/17/EC, the Auditor verified that the applicable national law on public procurement was followed and that the procurement contract complied with the Terms and Conditions of the Agreement. ○ if the Beneficiary did not fall into the category above, the Auditor verified that the Beneficiary followed their usual procurement rules and respected the Terms and Conditions of the Agreement. <p>For the items included in the sample the Auditor also verified that:</p> <ul style="list-style-type: none"> ○ the Beneficiary ensured best value for money (key elements to appreciate the respect of this principle are the award of the contract to the bid offering best price-quality ratio, under conditions of transparency and equal treatment. In case an existing framework contract was used the Auditor also verified that the Beneficiary ensured it was established on the basis of the principle of best value for money under conditions of transparency and equal treatment); <p><i>SUCH GOODS AND SERVICES INCLUDE, FOR INSTANCE, CONSUMABLES AND SUPPLIES, DISSEMINATION (INCLUDING OPEN ACCESS), PROTECTION OF RESULTS, SPECIFIC EVALUATION OF THE ACTION IF IT IS REQUIRED BY THE AGREEMENT, CERTIFICATES ON THE FINANCIAL STATEMENTS IF THEY ARE REQUIRED BY THE AGREEMENT AND CERTIFICATES ON THE METHODOLOGY, TRANSLATIONS, REPRODUCTION.</i></p>	<p>58) Procurement rules, principles and guides were followed. There were documents of requests to different providers, different offers and assessment of the offers before selection of the provider in line with internal procedures and procurement rules. The purchases were made in accordance with the principle of best value for money.</p> <p><i>(When different offers were not collected the Auditor explains the reasons provided by the Beneficiary under the caption “Exceptions” of the Report. The Commission will analyse this information to evaluate whether these costs might be accepted as eligible)</i></p>	
D.4	<p>AGGREGATED CAPITALISED AND OPERATING COSTS OF RESEARCH INFRASTRUCTURE</p> <p>The Auditor ensured the existence of a positive ex-ante assessment (issued by the EC Services) of the cost accounting methodology of the Beneficiary allowing it to apply the guidelines on direct costing for large research infrastructures in COSME.</p>	<p>59) The costs declared as direct costs for Large Research Infrastructures (in the</p>	
	<p><i>In the cases that a positive ex-ante assessment has been issued (see the standard factual</i></p>	<p>appropriate line of the Financial Statement) comply with the methodology described in the positive ex-</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><i>findings 59-60 on the next column),</i> The Auditor ensured that the Beneficiary has applied consistently the methodology that is explained and approved in the positive ex ante assessment;</p> <p><i>In the cases that a positive ex-ante assessment has NOT been issued (see the standard factual findings 61 on the next column),</i> The Auditor verified that no costs of Large Research Infrastructure have been charged as direct costs in any costs category;</p> <p><i>In the cases that a draft ex-ante assessment report has been issued with recommendation for further changes (see the standard factual findings 61 on the next column),</i></p> <ul style="list-style-type: none"> The Auditor followed the same procedure as above (when a positive ex-ante assessment has NOT yet been issued) and paid particular attention (testing reinforced) to the cost items for which the draft ex-ante assessment either rejected the inclusion as direct costs for Large Research Infrastructures or issued recommendations. 	<p>ante assessment report.</p> <p>60) Any difference between the methodology applied and the one positively assessed was extensively described and adjusted accordingly.</p> <p>61) The direct costs declared were free from any indirect costs items related to the Large Research Infrastructure.</p>	
E	USE OF EXCHANGE RATES		
E.1	<p>a) For Beneficiaries with accounts established in a currency other than euros</p> <p>The Auditor sampled [redacted] cost items selected randomly and verified that the exchange rates used for converting other currencies into euros were in accordance with the following rules established in the Agreement (full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is highest):</p> <p><i>COSTS INCURRED IN ANOTHER CURRENCY SHALL BE CONVERTED INTO EURO AT THE AVERAGE OF THE DAILY EXCHANGE RATES PUBLISHED IN THE C SERIES OF OFFICIAL JOURNAL OF THE EUROPEAN UNION (https://www.ecb.int/stats/exchange/eurofxref/html/index.en.html), DETERMINED OVER THE CORRESPONDING REPORTING PERIOD.</i></p>	<p>62) The exchange rates used to convert other currencies into Euros were in accordance with the rules established of the Grant Agreement and there was no difference in the final figures.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><i>IF NO DAILY EURO EXCHANGE RATE IS PUBLISHED IN THE OFFICIAL JOURNAL OF THE EUROPEAN UNION FOR THE CURRENCY IN QUESTION, CONVERSION SHALL BE MADE AT THE AVERAGE OF THE MONTHLY ACCOUNTING RATES ESTABLISHED BY THE COMMISSION AND PUBLISHED ON ITS WEBSITE (http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm), DETERMINED OVER THE CORRESPONDING REPORTING PERIOD.</i></p>		
	<p>b) For Beneficiaries with accounts established in euros</p> <p>The Auditor sampled [redacted] cost items selected randomly and verified that the exchange rates used for converting other currencies into euros were in accordance with the following rules established in the Agreement (full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 10 item, or 10% of the total, whichever number is highest):</p> <p><i>COSTS INCURRED IN ANOTHER CURRENCY SHALL BE CONVERTED INTO EURO BY APPLYING THE BENEFICIARY'S USUAL ACCOUNTING PRACTICES.</i></p>	<p>63) The Beneficiary applied its usual accounting practices.</p>	

[legal name of the audit firm]

[name and function of an authorised representative]

<dd Month yyyy>

<Signature of the Auditor>