H2020 Programme

AGA – Annotated Model Grant Agreement

Version 4.1
26 October 2017

Disclaimer
This guide is aimed at assisting beneficiaries. It is provided for information purposes only and is not intended to replace consultation of any applicable legal sources. Neither the Commission nor the its executive Agencies (or any person acting on their behalf) can be held responsible for the use made of this guidance document.

HISTORY OF CHANGES		
Version	**Publication date**	**Changes**
1.0	20.12.2013	▪ Initial version following adoption of the grant agreement v.1.0. Article 6.
1.2	17.02.2014	▪ Articles 7 to 14, 17 to 19, 23a to 25, 35, 52 to 54, 56 and 58 added
1.3	26.03.2014	▪ Articles 16, 32 to 34 and 41 to 44 added
1.4	16.04.2014	▪ Articles 4 to 6, 9 to 16, 20, 21, 23, 24, 39, 40, 45 to 52 and 57 added or revised
1.5	25.04.2014	▪ Articles 22, 26 to 31, 36 to 38, and 55 added
1.6	02.05.2014	▪ New annotations for: ERC, SME Instrument, ERA-NET COFUND, PCP-PPI COFUND, EJP COFUND, Framework Partnership and Specific Agreements
1.6.1	16.06.2014	▪ Clickable table of contents added
1.6.2	17.07.2014	▪ Links to time-sheet model and declaration model for personnel costs
1.6.3	20.08.2014	▪ Changed link to Main Work Programme – MSCA (page 55)
1.7	19.12.2014	▪ Updates due to the amendment of the model grant agreement v.2.0, in particular Articles 3, 9, 20.6 and 38.1.2 ▪ New annotations on Articles 6.2.A, 6.2.E, 6.2.F, 22.4, 22.5 ▪ New explanations and examples resulting from frequently asked questions, in particular in Articles 2, 6.1, 6.2.D.2, 6.2.D.3, 6.3, 6.4, 6.5, 10, 13, 14, 18, 20.4, 34, 39, 41.5, 43, 49.1, 50.3, 55 and 57; ▪ Updates in the derived model grant agreements: - ERC: Articles 2, 4, 6.2, 8, 32, 56.1 and 56.a - SME: Articles 2, 5.4, 8, 21, 41, 42, 43, 44, 50 Ph1 and Article 2, 4 and 6 Ph2 - ERA-NET Co-fund: Article 4, 6.2.B and 13 (option for PCP) - EJP Co-fund: Article 4, 6.2 ▪ New Annotations for the MSCA ▪ Other minor corrections and clarifications ▪ Improved clickable table of contents including Articles
2.0	30.03.2015	▪ Reformatting into the style of the Online AGA. Streamlined approach to information with exclamation mark, and info sign; presentation in yellow and blue text boxes. ▪ Clickable cross-references (Articles) ▪ New table explaining the treatment of the different types of work contracts (under Article 6.2.A). ▪ New explanations and examples resulting from frequently asked questions, in particular in Articles 2, 3, 6.2.A, 6.2.D, 6.2.E, 6.2.F, 13, 18.2, 21, 27, 28.3, 29, 30, 38, 41, 47 and substantial updates in Article 55. ▪ Updates in the derived model grant agreements: – ERC: ERC GA preamble, Article 56a – MSCA: ITN Articles 6.2, 19.2, 32; IF Articles 6.2, 8, 32; RISE Articles 6.2, 19; Co-fund Articles 6.2, 15, 19 – FPA: Article 13; SGA: Article 17 ▪ Other minor corrections and clarifications
2.0.1	18.05.2015	▪ Corrigendum of annotations on Article 4 of the MSCA-ITN and the MSCA-RISE grants

2.1	30.10.2015	▪ New explanations and examples resulting from frequently asked questions, in particular in Articles 5.2, 6.1, 6.2.A, 6.2.D, 6.5, 9, 11, 12, 13, 14, 20, 21, 22.2, 24, 26, 29, 30, 31, 34, 40, 43, 47, 50, 55 and 56. ▪ New Section I.3 'List of issues applicable to particular countries' added — explanations on eligibility of national taxes, bonuses ▪ New annotations and updates in the derived model grant agreements: – ERC MGA: Preamble, Articles 6, 8, 18, 29 and 56a – MSCA: ITN Articles 4, 6.2, 8, 31; 32, IF Articles 4, 6.1, 6.2, 8, 31, 32; 56a RISE Articles 4, 6.2, 8, 18; 31 Co-fund Articles 4, 6.2, 8, 15 – SME Instrument Phase 1: Article 5; – SME Instrument Phase 2: Article 13; – ERA-NET Co-fund: Articles 5.2, 6.2.A and 20; – FPA: Article 5; – MGA Lump sum: new annotations. ▪ Other minor corrections and clarifications.
2.1.1	01.07.2016	▪ Update of the explanations on Article 18 regarding time records; including a model of time-sheet with the minimum requirements.
2.2	25.11.2016	▪ Updates due to the amendment of the model grant agreement v.3.0, in particular Articles 4.2, 5, 6.2.A, 10, 13, 16, 20, 34, 37, 41, 42, 43, 45, 46, 48, 49, 50 and 55 ▪ New annotations on Articles 29.2 and 29.3. ▪ New explanations and examples resulting from frequently asked questions, in particular in Article 6, 6.1, 6.2, 6.5 and 18. ▪ Updates in the annotations to specific model grant agreements: - ERC: Preamble, Articles 6, 29 and 56a - MSCA: Preamble ITN, Articles 4, 5, 6, 8, 18, 19 and 32; IF Articles 2, 4, 6, 8, 18, 32 and 56a; RISE Articles 4, 6, 8, 18, 19, 31 and 32; COFUND Articles 4, 6, 8, 15 and 18. - ERA-NET Co-fund: Articles 2, 19 and 21 - PCP-PPI: Articles 5 and 13 - EJP Co-fund: Articles 5, 6.F and 20 ▪ Synchronised presentation for grounds for Chapter 6 measures, security obligations and information obligations. ▪ Other minor corrections and clarifications ▪ Update in Section I.3 'List of issues applicable to particular countries' New rules that apply in principle only for grant agreements signed with version 3.0 are marked with 3.0 » (This version refers to MGA v3.0 to align it no AGA v3.0 was created)
4.0	21.04.2017	▪ Updates due to the amendment of the model grant agreement v.4.0, in particular Articles 5, 6 and 52 ▪ New annotations on Article 14a following the introduction of this Article in the revised model grant agreements v.4.0 ▪ New explanations and examples resulting from frequently asked questions, in particular in Article 6 and 18. ▪ Updates in the annotations to specific model grant agreements: ERC, MSCA, PCP-PPI and FPA/SGA ▪ Other minor corrections and clarifications For easy identification, paragraphs, indents or sections with new explanations are marked with the symbol ■ on the left. New rules that apply in principle only for grant agreements signed with version 4.0 are marked with 4.0 »

4.0.1	20.06.2017	▪ Addition of index at the bottom of the pages
4.1	26.10.2017	▪ New explanations and examples, in particular in Articles, 6.2.F, 18, 50 and 55 of the general MGA ▪ Corrigendum of annotations on Article 6 of the MSCA-ITN, IF, Cofund and the MSCA-RISE grants ▪ Corrigendum of annotation on Article 6.2.F of the EJP Cofund grant ▪ Update in Section I.3 'List of issues applicable to particular countries' ▪ Other minor corrections and clarifications For easy identification, paragraphs, indents or sections with new explanations are marked with the symbol ■ on the left.

IMPORTANT NOTICE

The **AGA — Annotated Model Grant Agreement** is a **user guide** that aims to explain to **applicants** and **beneficiaries** the General Model Grant Agreement (General MGA) and the different specific Model Grant Agreements ('Specific MGAs') for the Horizon 2020 Framework Programme for 2014-2020 (H2020).

The purpose of this document is to help users understand and interpret the GAs, by avoiding technical vocabulary, legal references and jargon, and seeking to help readers find answers to any practical questions they may have about particular parts of the GAs.

In the same spirit, the document's structure mirrors that of the GAs. It explains each GA Article and includes examples where appropriate.

Since the Specific MGAs have a similar set-up and provisions as the General MGA (i.e. they are all derived from the General MGA), the annotations will focus mainly on the General MGA (and the annotations of the other MGAs will be limited to major differences from that MGA). The key provisions on the amount, cost forms and eligibility conditions of your grant are however explained for all MGAs *(see Articles 4-6 of each MGA)*.

The annotations are — with some exceptions — done on the multi-beneficiary versions. The multi- and mono-beneficiary versions are largely identical.

Our approach

1. The **text** of the **article** appears in a grey text box — to differentiate it from the annotations.

   The **concepts** that are annotated are in bold and underlined.

   The annotations to the article are immediately underneath.

   Long articles are split into different parts, so the annotations can be placed below the relevant parts.

   Examples, **best practices** are in bold and green.

   Lists and **procedures** are in bold and red.

   Specific cases and **exceptions** are in bold and orange.

   New explanations (compared to the last update) will be marked with: ■

   New rules that do not apply to all signed grant agreements (but instead only to those signed after a certain version, e.g. version 3.0), will be marked with: 3.0 and 3.0

2. As the AGA intends to be comprehensive, it will cover all possible **options** envisaged in the different GA articles.

   Many of these options may not be relevant to your grant (and will not appear in the grant agreement you sign, or will be marked 'not applicable').

   The chosen options will appear in italics (without brackets and without the option title), to allow you to easily spot that a specific rule applies.

Updates

With version 2.0, the AGA was reformatted into a clickable online version.

It will be periodically updated with new examples and explanations, based on practical experience and on-going developments.

Other information

The AGA is limited to annotations to the provisions of the H2020 MGAs. For a more general overview of how H2020 grants work, see the Online Manual.

A comprehensive list of all H2020 reference documents (including legislation, work programme and templates) can be found on the Participant Portal Reference documents page.

H2020 terms are explained in the Participant Portal Glossary.

If necessary, you can also contact the Research Enquiry Service.

Legislation

H2020 Framework Programme — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) (OJ 347, 20.12.2013, p. 104).

Euratom Research and Training Programme (2014-2018) — Council Regulation (Euratom) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 – The Framework Programme for Research and Innovation (OJ L 347, 20.12.2013, p. 948).

H2020 Specific Programme — Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme Implementing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) (OJ L 347, 20.12.2013, p. 965).

Rules for Participation (RfP) — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 of December 2013 laying down the rules for the participation and dissemination in Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) (OJ L 347, 20.12.2013, p.81).

Financial Regulation (FR) — Regulation (EC, 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 European Union (OJ L 298, 26.10.2012, p.1).

Rules of Application (RAP) — Commission Regulation (EC, Euratom) No 1268/2012 of 29 October 2012 on the rules of application of l Regulation (EC, 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 298, 26.10.2012, p.1).

TABLE OF CONTENTS

I. GENERAL MODEL GRANT AGREEMENT (H2020 GENERAL MGA) 14

I.1 Background information 14

I.2 H2020 General MGA: Annotations 15

CHAPTER 1 GENERAL 18

ARTICLE 1 — SUBJECT OF THE AGREEMENT 18

CHAPTER 2 ACTION 19

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION] 19

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION 21

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 22

CHAPTER 3 GRANT 26

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS 26

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 39

CHAPTER 4 RIGHTS AND OBLIGATIONS OF THE PARTIES 124

SECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE ACTION 124

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION 124

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION 125

ARTICLE 9 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING 130

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES 133

ARTICLE 11 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT 136

ARTICLE 12 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE 140

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS 143

ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES 150

ARTICLE 14a — IMPLEMENTATION OF ACTION TASKS BY INTERNATIONAL PARNERS 156

ARTICLE 15 — FINANCIAL SUPPORT TO THIRD PARTIES 158

ARTICLE 16 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURE 163

SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION 170

ARTICLE 17 — GENERAL OBLIGATION TO INFORM 170

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION 173

ARTICLE 19 — SUBMISSION OF DELIVERABLES 182

ARTICLE 20 — REPORTING — PAYMENT REQUESTS 183

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS 194

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS 202

ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION 218

SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS 219

ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY 219

ARTICLE 24 — AGREEMENT ON BACKGROUND 220

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND 222

ARTICLE 26 — OWNERSHIP OF RESULTS 225

ARTICLE 27 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING 229

ARTICLE 28 — EXPLOITATION OF RESULTS 232

ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING 234

ARTICLE 30 — TRANSFER AND LICENSING OF RESULTS....242
ARTICLE 31 — ACCESS RIGHTS TO RESULTS....247
SECTION 4 OTHER RIGHTS AND OBLIGATIONS 252
ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS....252
ARTICLE 33 — GENDER EQUALITY....255
ARTICLE 34 — ETHICS AND RESEARCH INTEGRITY....256
ARTICLE 35 — CONFLICT OF INTERESTS....262
ARTICLE 36 — CONFIDENTIALITY....264
ARTICLE 37 — SECURITY-RELATED OBLIGATIONS....266
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING....268
ARTICLE 39 — PROCESSING OF PERSONAL DATA....273
ARTICLE 40 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE *[COMMISSION][AGENCY]*....277
CHAPTER 5 DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION 278
ARTICLE 41 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION....278
CHAPTER 6 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — SANCTIONS — DAMAGES — SUSPENSION — TERMINATION — FORCE MAJEURE 287
SECTION 1 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — SANCTIONS 287
ARTICLE 42 — REJECTION OF INELIGIBLE COSTS....287
ARTICLE 43 — REDUCTION OF THE GRANT....292
ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS....298
ARTICLE 45 — ADMINISTRATIVE AND FINANCIAL PENALTIES....309
SECTION 2 LIABILITY FOR DAMAGES 311
ARTICLE 46 — LIABILITY FOR DAMAGES....311
SECTION 3 SUSPENSION AND TERMINATION 313
ARTICLE 47 — SUSPENSION OF PAYMENT DEADLINE....313
ARTICLE 48 — SUSPENSION OF PAYMENTS....315
ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION....318
ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES....324
SECTION 4 FORCE MAJEURE 341
ARTICLE 51 — FORCE MAJEURE....341
CHAPTER 7 FINAL PROVISIONS 343
ARTICLE 52 — COMMUNICATION BETWEEN THE PARTIES....343
ARTICLE 53 — INTERPRETATION OF THE AGREEMENT....346
ARTICLE 54 — CALCULATION OF PERIODS, DATES AND DEADLINES....347
ARTICLE 55 — AMENDMENTS TO THE AGREEMENT....348
ARTICLE 56 — ACCESSION TO THE AGREEMENT....360
ARTICLE 57 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES....363
ARTICLE 58 — ENTRY INTO FORCE OF THE AGREEMENT....367
I.3 Issues applicable to particular countries....368
II. ERC MGAS 369
II.1 Background information and approach....369
II.2 H2020 ERC MGA: Annotations....371
ARTICLE 2 — ACTION TO BE IMPLEMENTED....375
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....376

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS....377
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS....379
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION....381
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION....382
ARTICLE 20 — REPORTING — PAYMENT REQUESTS....384
ARTICLE 26 — OWNERSHIP OF RESULTS....388
ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING....389
ARTICLE 32 — WORKING CONDITIONS FOR THE PRINCIPAL INVESTIGATOR*[S]* AND *[HIS/HER][THEIR]* TEAM....392
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING....397
ARTICLE 56 — ACCESSION TO THE AGREEMENT....398
ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY — PORTABILITY OF THE GRANT....399
II.3 H2020 ERC MGA PoC: Annotations....402
ARTICLE 2 — ACTION TO BE IMPLEMENTED....403
ARTICLE 20 — REPORTING — PAYMENT REQUESTS....404
III. MARIE SKŁODOWSKA-CURIE ACTIONS (MSCA) MGAS 408
III.1 Background information and approach....408
III.2 H2020 MGA MSCA-ITN: Annotations....411
ARTICLE 2 — ACTION TO BE IMPLEMENTED....411
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....412
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS....414
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS....417
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION....428
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION....431
ARTICLE 19 — SUBMISSION OF DELIVERABLES....432
ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND....434
ARTICLE 31 — ACCESS RIGHTS TO RESULTS....434
ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RECRUITED RESEARCHERS....435
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING....439
III.3 H2020 MGA MSCA-IF: Annotations....441
ARTICLE 2 — ACTION TO BE IMPLEMENTED....441
ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION....442
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....443
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS....444
ARTICLE 6 – ELIGIBLE AND INELIGIBLE COSTS....446
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION....456
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION....459
ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND....459
ARTICLE 31 — ACCESS RIGHTS TO RESULTS....460
ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR THE RECRUITED RESEARCHER....461
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING....465
ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION....467

ARTICLE 55 — AMENDMENTS TO THE AGREEMENT 469
ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY 470
III.4 H2020 MGA MSCA-RISE: Annotations 473
ARTICLE 2 — ACTION TO BE IMPLEMENTED 473
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 474
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS 476
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 478
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION 487
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION 490
ARTICLE 19 — SUBMISSION OF DELIVERABLES 491
ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND 493
ARTICLE 31 — ACCESS RIGHTS TO RESULTS 493
ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR SECONDED STAFF MEMBERS 494
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING 497
III.5 H2020 MGA MSCA-COFUND: Annotations 499
ARTICLE 2 — ACTION TO BE IMPLEMENTED 499
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 500
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS 501
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 503
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION 509
ARTICLE 15 — FINANCIAL SUPPORT TO OR IMPLEMENTATION OF A *[DOCTORAL] [FELLOWSHIP]* PROGRAMME 511
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION 519
ARTICLE 19 — SUBMISSION OF DELIVERABLES 520
ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND 521
ARTICLE 31 — ACCESS RIGHTS TO RESULTS 521
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING 522
IV. SME INSTRUMENT MGAS 524
IV.1 Background information and approach 524
IV.2 H2020 MGA SME Ph1: Annotations 526
ARTICLE 2 — ACTION TO BE IMPLEMENTED 526
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 527
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM OF COSTS 528
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 531
ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION 534
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION 535
ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES 536
ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS 537
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION 539
ARTICLE 20 — REPORTING — PAYMENT REQUESTS 540
ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS 542
ARTICLE 36 — CONFIDENTIALITY 545
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING 546

ARTICLE 41 —BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION....548
ARTICLE 42 — REJECTION OF INELIGIBLE COSTS....550
ARTICLE 43 — REDUCTION OF THE GRANT....551
ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS....552
ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES....556
IV.3 H2020 MGA SME Ph2: Annotations....563
ARTICLE 2 — ACTION TO BE IMPLEMENTED....563
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....564
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORMS OF COSTS....565
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS....566
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION – THIRD PARTIES INVOLVED IN THE ACTION....567
ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS....568
ARTICLE 20 — REPORTING — PAYMENT REQUESTS....572
ARTICLE 26 — OWNERSHIP OF RESULTS....573
V. ERA-NET COFUND MGA 574
V.1 Background information and approach....574
V.2 H2020 MGA ERA-NET Cofund: Annotations....575
ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]....577
ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION....579
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....580
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORMS OF COSTS....582
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS....584
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION....593
ARTICLE 15 — SUPPORT TO OR IMPLEMENTATION OF TRANS-NATIONAL PROJECTS....594
ARTICLE 19 — SUBMISSION OF DELIVERABLES....597
ARTICLE 20 — REPORTING — PAYMENT REQUESTS....599
ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS....603
VI. PCP/PPI MGA 605
VI.1 Background information and approach....605
VI.2 H2020 MGA PCP/PPI: Annotations....606
ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]....608
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS....610
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORMS OF COSTS....612
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS....614
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION....624
ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS....625
ARTICLE 19 — SUBMISSION OF DELIVERABLES....644
ARTICLE 20 — REPORTING — PAYMENT REQUESTS....646
ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS....650
ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS....652
VII. EJP COFUND MGA 653

VII.1 Background information and approach **653**

VII.2 H2020 MGA EJP Cofund: Annotations **654**

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION] 654

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION 655

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 656

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORMS OF COSTS 657

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 659

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES INVOLVED IN THE ACTION 673

ARTICLE 19 — SUBMISSION OF DELIVERABLES 674

ARTICLE 20 — REPORTING — PAYMENT REQUESTS 676

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS 677

VIII. FRAMEWORK PARTNERSHIPS AND SPECIFIC AGREEMENTS **679**

VIII.1 Background information and approach **679**

VIII.2 H2020 FPA: Annotations **684**

CHAPTER 1 GENERAL 687

ARTICLE 1 — SUBJECT MATTER OF THE AGREEMENT 687

CHAPTER 2 FRAMEWORK PARTNERSHIP 688

ARTICLE 2 — ACTION PLAN — AWARD OF SPECIFIC GRANTS — SPECIFIC AGREEMENTS 688

ARTICLE 3 — DURATION AND STARTING DATE OF THE FRAMEWORK PARTERNSHIP 691

ARTICLE 4 — RIGHTS AND OBLIGATIONS UNDER THE FRAMEWORK PARTNERSHIP 692

ARTICLE 5 — SUSPENSION OF FRAMEWORK PARTNERSHIP IMPLEMENTATION 693

ARTICLE 6 — TERMINATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE PARTNERS 694

ARTICLE 9 — ESTIMATED BUDGET AND BUDGET TRANSFERS 696

ARTICLE 10 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS 697

ARTICLE 11 — ELIGIBLE AND INELIGIBLE COSTS 700

ARTICLE 13 — RESOURCES TO IMPLEMENT THE SPECIFIC ACTIONS — THIRD PARTIES INVOLVED IN THE SPECIFIC ACTIONS 701

ARTICLE 62 — ACCESSION TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS 702

ARTICLE 63 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES 704

VIII.3 H2020 SGA: Annotations **706**

ARTICLE 17 — PAYMENTS AND PAYMENT ARRANGEMENTS 709

IX. LUMP SUM MGA **710**

IX.1 Background information and approach **710**

IX.2 H2020 MGA lump sum: Annotations **711**

ARTICLE 2 — ACTION TO BE IMPLEMENTED 711

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS 712

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM OF COSTS 713

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS 716

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION 718

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION—THIRD PARTIES INVOLVED IN THE ACTION 719

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES 720

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS 721

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION 722

ARTICLE 20 — REPORTING — PAYMENT REQUESTS 724
ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS....727
ARTICLE 41 — BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION....731
ARTICLE 42 — REJECTION OF INELIGIBLE COSTS....733
ARTICLE 43 — REDUCTION OF THE GRANT....734
ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS 736
ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION....741
ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES 743

I. GENERAL MODEL GRANT AGREEMENT (H2020 GENERAL MGA)

I.1 Background information

The General Model Grant Agreement (H2020 General MGA) is used for grants for 'research and innovation actions (RIA)', 'innovation actions (IA)' and 'coordination and support actions (CSA)'.

> ***Examples:*** *actions under Part III, Societal challenge 3 'Secure, clean and efficient energy' (see a Smart Cities and Communities call); actions under Part I, 'Research infrastructures' (see a Research Infrastructure call); actions under Part III, Societal challenge 1 'Health, Demographic Change and Wellbeing', etc.*

⚠ **Specific MGAs —** The General MGA is NOT used for actions that fall under one of the Specific MGAs (i.e. Lump sum MGA, ERC MGAs, MSCA MGAs, SME Instrument MGAs, ERA-NET Cofund MGA, PCP/PPI Cofund MGA, EJP Cofund MGA or Framework Partnerships).

I.2 H2020 General MGA: Annotations

GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

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

on the one part,

***[OPTION 1**: the **European Union** ('the EU'), represented by the European Commission ('the Commission')[2],]*

***[OPTION 2:** the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('the Commission')[3],]*

***[OPTION 3:** the [**Research Executive Agency (REA)**] [**European Research Council Executive Agency (ERCEA)**] [**Innovation and Networks Executive Agency (INEA)**] [**Executive Agency for Small and Medium-sized Enterprises (EASME)**] ('the Agency'), under the powers delegated by the European Commission ('the Commission')[4],]*

represented for the purposes of signature of this Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname],[5]

and

on the other part,

1. 'the **coordinator**':

[**full official name (short name)**] established in [official **address** in full], ***[OPTION for beneficiaries with VAT:** VAT number [insert number],] **[OPTION for coordinators not receiving EU funding:** as 'beneficiary not receiving EU funding' (see Article 9),]* 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 56):

2. [**full official name (short name)**], established in [official address in full], ***[OPTION for beneficiaries with VAT:** VAT number [insert number] ,]*

***[OPTION for beneficiaries not receiving EU funding:** X. [**full official name (short name)**], established in [official address in full]* ***[OPTION for beneficiaries with VAT:** VAT number [insert number],]* *as 'beneficiary not receiving EU funding' (see Article 9),]*

[same for each beneficiary]

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

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 it 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
	2a Additional information on the estimated budget
Annex 3	Accession Forms
	[OPTION to be used if Article 14 applies and if joint and several liability has been requested by the [Commission][Agency]: *3a Declaration on joint and several liability of linked third parties]*
	[OPTION if the JRC participates: *3b Administrative Arrangement]*
Annex 4	Model for the financial statements
Annex 5	Model for the certificate on the financial statements
Annex 6	Model for the certificate on the methodology

[2] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[3] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[5] The person representing the 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*'.

1. Participants: Coordinator — Beneficiaries — Linked third parties — Third parties involved in the action

'**Beneficiaries**' means the legal entities who have signed the grant agreement (GA) with the Commission/Agency (i.e. participate in a project supported by an EU grant).

⚠ The term **participant** is used in this document in a wider meaning than in the definition of Article 1.1(15) of the Rules for Participation Regulation No 1290/2013. It covers normally beneficiaries and linked third parties (and sometimes also other third parties involved in the action).

The '**coordinator**' is the beneficiary which is the central contact point for the Commission/Agency and represents the consortium (towards the Commission/Agency).

The **division of roles and responsibilities within the consortium** is explained in Article 41.2.

Generally speaking:

- the coordinator must coordinate and manage the grant and is the central contact point for the Commission/Agency
- the beneficiaries must all together contribute to a smooth and successful implementation of the grant (i.e. contribute to the proper implementation of the

action, comply with their own obligations under the GA and support the coordinator in his obligations).

The **signature arrangements** are the following:

- the coordinator directly signs the GA
- the other beneficiaries sign the GA by signing the Accession Form *(see Article 56)*.

Amendments to the GA, if any, will be signed by the coordinator on their behalf.

Applicants who accept the grant (by signing the GA) become beneficiaries of the grant and are **bound by the entirety of** its **terms and conditions**.

This means that the beneficiaries must:

- carry out the action (and especially the research work) as detailed in Annex 1 (technical implementation) and
- comply with all the other provisions of the GA and all the applicable provisions of EU, international and national law.

Other entities which participate in the action but do not sign the GA (including **linked third parties**, subcontractors, third parties giving in-kind contributions, etc.) are considered as **third parties involved in the action** *(see Articles 8 and 9-14)*.

They are formally speaking not bound by the terms and conditions of the GA, although it implies certain obligations for them; conversely, the Commission/Agency has no formal contractual link with them.

⚠ **Linked third parties —** Linked third parties are allowed to *fully* participate in the action, like the beneficiary they are linked to. They will therefore be treated for many issues (including cost eligibility; see *Article 6.3*) like beneficiaries.

2. Name and address — Legal entity data

The legal entity data (legal name, address, legal representatives, etc.) of the beneficiaries comes from the Participant Portal Beneficiary Register.

This data will be automatically used for all communications concerning this grant *(see Article 52)* and other H2020 grants.

⚠ The beneficiaries (via their **legal entity appointed representative (LEAR)**) must keep their **data** in the Participant Portal up-to-date at all times including after the end of the grant (*see Articles 17 and 52*).

CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT OF THE AGREEMENT

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 [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]

CHAPTER 2 ACTION

ARTICLE 2 — ACTION TO BE IMPLEMENTED *[— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]*

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

[OPTION for complementary grants if foreseen in the work programme: *The grant is a '**complementary grant**' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- *[insert number] [insert acronym]*
- *[insert number] [insert acronym]].]*

[OPTION for joint actions (joint call with a third country or an international organisation)*: The action is a '**jointly funded action**' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.]*

1. RIA, IA and CSA actions

What? The RIA, IA and CSA grants of the General MGA fund[1]:

- for **research and innovation actions (RIA)**: R&D aiming to establish new knowledge or explore the feasibility of a new technology, product, process, service or solution (including basic and applied research, technology development and integration, testing and validation on a small-scale prototype in a laboratory or simulated environment)
- for **innovation actions (IA)**: innovation activities directly aiming at producing plans and arrangements or designs for new, altered or improved products, processes or services (including prototyping, testing, demonstrating, piloting, large-scale product validation and market replication)[2]
- for **coordination and support actions (CSA)**: accompanying measures *(such as standardisation, dissemination, awareness-raising and communication, networking, coordination or support services, policy dialogues and mutual learning exercises and studies)*[3].

[1] More information on the types of action can be found on the General Annexes to the Work Programme.

[2] For the definition, *see Article 2.1(6) of the Rules for Participation Regulation No 1290/2013:* '**innovation action**' means an action primarily consisting of activities directly aiming at producing plans and arrangements or designs for new, altered or improved products, processes or services. For this purpose they may include prototyping, testing, demonstrating, piloting, large-scale product validation and market replication.

[3] For the definition, *see Article 2.1(7) of the Rules for Participation Regulation No 1290/2013:* '**coordination and support action**' means an action consisting primarily of accompanying measures such as standardisation, dissemination, awareness-raising, and communication, networking, coordination or support services, policy dialogues and mutual learning exercises and studies, including design studies for new infrastructure, and may

The term **action** comes from the Financial Regulation No 966/2012 and **means project**. (Previous EU Research Framework Programmes used project.)

RIA, IA and CSA actions are mono- or multi-beneficiary actions.

They are funded in all Parts of Horizon 2020 *(e.g. H2020-FETOPEN-2014-2015-RIA; H2020-WIDESPREAD-2014-3).*

For more information on RIA, IA and CSA actions, *see the Online Manual and the H2020 grants fact sheets.*

2. Complementary grants

'Complementary grants' are different EU grants which are linked by the work programme/calls by identifying them as complementary actions.

The beneficiaries and those of the complementary grants must cooperate and provide access to their results.

They must conclude a written **collaboration agreement** regarding the coordination of the complementary grants and the work of the action *(see Article 41.4)*. (It covers the case included under Special Clause 41 in FP7.)

3. Jointly funded actions ('joint actions')

'Joint actions' are the result of **joint** or **coordinated calls** for proposals, launched in parallel by the EU and a non-associated third country (i.e. a third country not associated to Horizon 2020) or international organisation (in policy areas of common interest and expected mutual benefit where there is a clear added value for the EU).[4]

For *joint* calls: the applicants prepare a joint proposal which is submitted to *both* the EU and the third country/IO; the proposals are evaluated and selected through joint evaluation and selection procedures, involving a balanced group of independent experts appointed by each party.

For *coordinated* calls: the applicants submit separate proposals (to the EU and the third country/IO), together with a summary of the work to be done under the coordinated proposal. The Commission/Agency will only evaluate the proposals for the EU action; however, the evaluation may be coordinated (i.e. include experts from the third country/IO use the same expert panels; apply the same evaluation criteria, etc.).

For both types of calls, the EU participants sign a GA with the EU, while the third country participants sign one with their funding agency/IO. The description of the action (Annex 1 of the GA) contains the research carried out under the EU action (but will also include detailed explanations about the research to be carried out under the third country/IO action).

To ensure coordination, the participants of the two actions must conclude a **coordination agreement** *(see Article 41.5)* to link the actions (although legally separate) and ensure a smooth and successful project implementation.

For guidance on coordination agreements, *see the Guidance — How to draw up your coordination agreement.*

also include complementary activities of networking and coordination between programmes in different countries.

[4] *See Article 12 of the Rules for Participation Regulation No 1290/2013.*

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The duration of the action will be **[insert number] months** as of *[**OPTION 1 by default:** the first day of the month following the date the Agreement enters into force (see Article 58)] [**OPTION 2 if needed for the action:** [insert date]]*[6] ('**starting date of the action**').

[6] 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 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).

1. Action starting date

The action starting date is fixed by the Commission/Agency in the GA.

It is usually the first day of the month following the date when the GA enters into force. The GA enters into force when the last party signs it *(see Article 58)*.

A fixed starting date may also be agreed between the Commission/Agency and the consortium.

Exceptionally, the Commission/Agency may agree that the action starts on another day than the first day of the month, if the consortium requests it (usually in its proposal) and can show that there is a need to start the action at that moment *(e.g. an action that is dependent on environmental conditions)*.

That starting date can be either:

- **before the entry into force** of the GA, i.e. before the grant agreement is signed by both parties

  Example: *GA signed by the coordinator on 30.12.2014. Commission signs on 5.1.2015. The action starting date would normally be the 1.2.2015, but the consortium has requested a fixed starting date of 1.9.2014 in its proposal (submitted by the consortium on 15.5.2014), since the action funded is the continuation of a previous FP7 project. Upon consideration of the reasons, this fixed starting date is approved.*

  If the consortium (via the coordinator) requests a *fixed* starting date before the entry into force of the GA, it (the consortium) assumes the risks implied by starting the action before the GA is signed, in particular not being reimbursed for the costs incurred (*e.g. the eventuality that the proposal is not successful or that the GA is not signed)*

  ⚠ The action starting date can **NEVER** be **before** the **submission** of the proposal.

- **after the entry into force of the GA,** i.e. after the grant agreement is signed by both parties, but on another day than the first day of the following month

  A starting date fixed much later in time *(e.g. 2-3 months after the signature of the GA)* will have an impact on the timing of the pre-financing payment and will delay it.

2. Action duration

The action duration is fixed by the Commission/Agency in the GA.

It is expressed as a number of months, running from the action starting date until the end date of the action.

⚠ The action duration relates only to the period during which the ***action tasks*** (set out in Annex 1) are implemented.

The end date of the action is therefore NOT the same as project closure or the end of the GA.

After the end date of the action, the beneficiaries still have to submit their final report and the Commission/Agency has to make the payment of the balance. Moreover, certain obligations under the GA continue even afterwards.

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*). ***[OPTION to be used if Article 9 or 14a applies:*** *It also shows the estimated costs of the beneficiaries not receiving EU funding (see Article 9)][and][international partners (see Article 14a)].]*

4.2 Budget transfers

The estimated budget breakdown indicated in Annex 2 may be adjusted — without an amendment (see Article 55) — by transfers of amounts between beneficiaries, budget categories and/or forms of costs set out in Annex 2, 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 13.

[OPTION if lump sum foreseen in Article 5.2: Moreover, *lump sums set out in Annex 2 can never be adjusted.]*

1. Estimated budget

The estimated budget of the action is calculated on the basis of the estimated eligible costs submitted by the consortium and is annexed to the GA *(Annex 2)*.

These estimated eligible costs are used to determine the 'maximum grant amount' of the action (called 'EU/Euratom financial contribution' in FP7 projects; *see Article 5.1)*.

Costs of beneficiaries not receiving EU funding and costs of international partners will be indicated in Annex 2, but will not be included in the total eligible costs and will not count for the maximum amount of the grant *(see Article 9 and Article 14a)*.

2. Budget categories

The budget categories are listed in Article 6.2 and reflected in the table in Annex 2.

Budget categories of the General MGA:

- direct personnel costs
  - costs for employees (or equivalent)
  - costs for natural persons working under a direct contract
  - costs of personnel seconded by a third party against payment
  - costs for SME owners without salary
  - costs for beneficiaries that are natural persons without salary
  - personnel costs for providing trans-national access to research infrastructure
- direct costs of subcontracting

- direct costs of providing financial support to third parties (if option applies)
- other direct costs
  - travel costs and related subsistence allowances
  - equipment costs
  - costs of other goods and services
  - capitalised and operating costs of large research infrastructure
- indirect costs
- specific cost categories (if option applies).

  This budget category (specific cost categories) applies ONLY where specific activities are reimbursed by unit costs or lump sum costs. For the General MGA, this is currently the case for 'access costs for providing trans-national access to research infrastructure', 'costs for energy efficiency measures in buildings' and 'costs for clinical studies'.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

⚠ Costs for personnel, equipment, goods or services that are in-kind contributions by a third party (for free or against payment) can in practice simply be added to the budget category they correspond to (i.e. personnel costs or other direct costs) — if they comply with the eligibility rules set out in Articles 6 and 11 and 12.

3. Budget transfers

The budget in Annex 2 is an estimation.

Therefore at the time of reporting, beneficiaries may declare costs that are different from the estimated eligible costs in the budget.

Moreover, beneficiaries may transfer budget among themselves, between linked third parties or between budget categories — without requesting an amendment *(see Article 55)* (unless Annex 1 must be changed).

⚠ The maximum grant amount *(see Article 5.1)* can however **NEVER** be **increased**.

What can be transferred?

If the incurred eligible costs are lower than the estimated eligible costs, the difference can be allocated to another beneficiary or another budget category. The amount reimbursed for the other beneficiary (by application of its reimbursement rate) or for the other budget category (to which the budget transfer is intended) may thus be higher than planned.

Example: *The estimated budget includes personnel costs of EUR 60 000 for Beneficiary A and EUR 75 000 for Beneficiary B. However, at the end of the action, the actual personnel costs of Beneficiary A are EUR 75 000 due to an increase in salaries or to the need to employ additional personnel to carry out the tasks mentioned in Annex 1 while the actual personnel costs of Beneficiary B are EUR 60 000. This may be acceptable provided the additional costs of Beneficiary A fulfil the eligibility requirements of Article 6 and up to the maximum grant amount set out in Article 5.1 (at the level of the action).*

Unit costs — If the GA foresees unit costs, transferring amounts declared as unit costs to other categories or other beneficiaries is possible if the actual number of units used (or produced) by the beneficiary is less than the number estimated in Annex 2. The cost per unit cannot be changed.

Example:

Total estimated unit costs for beneficiary A: EUR 10 000 (100 units x 100 EUR/unit)

Total actual unit costs used (or produced) by beneficiary A: EUR 8 000 (80 units x 100 EUR/unit)

Total possible transfer to another budget category: EUR 2 000

What not?

The GA allows transfers of budget, not of **tasks**.

A beneficiary cannot transfer budget to a **form of costs** that it did not set out **in its estimated budget** — except within the personnel costs category and to costs of internally invoiced goods and services (*Article 6.2.D.5*).

Example (allowed transfer): *A beneficiary budgets all its direct personnel costs as 'actual costs' in the estimated budget (column A (a) of Annex 2). However, at the end of the first reporting period, the beneficiary declares its direct personnel costs as 'unit costs determined according to its usual cost accounting practices' (average personnel costs, in column A (b) of Annex 2). This is acceptable without an amendment of the GA.*

Example (not allowed transfer): *A beneficiary budgets all its costs as 'actual costs' in the estimated budget. However, at the end of the first reporting period, the beneficiary wants to declare part of the costs by using a specific unit cost allowed in the call (e.g. unit cost for clinical studies). This is NOT possible without an amendment of the GA.*

If the budget transfer is due to a **significant change in Annex 1**, an amendment to the GA is needed. A significant change is a change that affects the technical work ('action tasks') of Annex 1.

Best practice: The coordinator can contact the Commission/Agency to ask whether the transfer of budget reflects a significant change in Annex 1 which requires an amendment.

Lump sums — If the GA provides for a lump sum, the lump sum set out in Annex 2 cannot be transferred to another category or to another beneficiary.

Furthermore, the amount of the lump sum can never be increased, decreased or split.

Example: *EUR 30 000 lump sum foreseen for travel in Annex 2 (under 'other direct costs') cannot be turned into a EUR 15 000 lump sum for travel and EUR 15 000 for personnel costs*

New subcontracts — The transfer of budget intended to increase the eligible costs for 'subcontracting' is considered to reflect a significant change of Annex 1 normally requires an amendment (unless the beneficiary uses the 'simplified approval procedure' without formal amendment provided for in Article 13).

Example (amendment): *Beneficiary A subcontracts an action task during the action implementation, because it decided not to recruit additional personnel as initially foreseen, but to use a subcontractor. It requests an ex-ante approval via an amendment (see Article 55)*

Example (simplified approval procedure): *A beneficiary wants to subcontract a task that originally it was going to carry out by itself. It wants to transfer EUR 100 000 from personnel costs to subcontracting. In order to make sure that this new subcontracting is possible and its cost is eligible, this will require an amendment to the GA before the subcontracting takes place. However, the beneficiary doesn't request an amendment, but declares the change only with the next periodic technical report (at its own risk). Since the Commission approves the report, the costs of the additional subcontract are eligible.*

⚠ Beneficiaries that rely on the simplified approval procedure bear the **full risk** of non-approval and rejection by the Commission/Agency *(see Article 13)*.

CHAPTER 3 GRANT

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

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 ***[OPTION 1 for research and innovation actions (RIA) and coordination and support actions (CSA): 100 %*** *of the action's eligible costs]* ***[OPTION 2 for innovation actions (IA)***[7]***: 100%*** *of the eligible costs for beneficiaries [and linked third parties] that are non-profit legal entities*[8] *and* ***70%*** *of the eligible costs for beneficiaries [and linked third parties] that are profit legal entities]* ***[OPTION 3 for exceptional cases if foreseen in the work programme: [OPTION A for RIA and CSA:*** *[…%] of the action's eligible costs]****[OPTION B for IA:*** *[…%] of the eligible costs for beneficiaries [and linked third parties] that are non-profit legal entities*[9] *and […%] of the eligible costs for beneficiaries [and linked third parties] that are profit legal entities]]*** (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**'):

(a) for **direct personnel costs** *[(excluding direct personnel costs covered by the unit cost[/lump sum] under Point (f))]*[10]:

- as actually incurred costs ('**actual costs**') or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

Personnel **costs for SME owners** or **beneficiaries that are natural persons** not receiving a salary (see Article 6.2, Points A.4 and A.5) must be declared on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(b) for **direct costs of subcontracting** *[(excluding subcontracting costs covered by the unit cost[/lump sum] under Point (f))]*[10]: as actually incurred costs (**actual costs**);

(c) for **direct costs of providing financial support to third parties** [(excluding costs of financial support covered by the unit cost[/lump sum] under Point (f))]*[12]: ***[OPTION 1 to be used if Article 15 applies:*** *as actually incurred costs (**actual costs**);][**OPTION 2**: not applicable;]*

(d) for **other direct costs** *[(excluding other direct costs covered by the unit cost[/lump sum] under Point (f))]*[13]:

- for costs of internally invoiced goods and services: on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices (**unit costs**);
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **indirect costs** *[(excluding indirect costs covered by the unit cost[/lump sum] under Point (f))]*[14]: on the basis of a flat-rate applied as set out in Article 6.2, Point E ('**flat-rate costs**');

(f) ***[OPTION** 1a **for specific unit costs (if unit cost foreseen by Commission decision and applicable to the grant):** for [**insert name of specific cost category(ies)**[15]]: on the basis of the amount(s) per unit set out in Annex 2a[16] ('**unit costs**').]*

***[OPTION** 1b **for specific lump sum costs (if lump sum foreseen by Commission decision and applicable to the grant):** for [**insert name of specific cost category(ies)**]: as the lump sum set out in Annex 2 ('**lump sum costs**').]*

***[OPTION 2: specific cost category(ies):** not applicable.]*

7 For the definition, see Article 2.1(6) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)" ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.12.2013 p.81): '**innovation action**' means an action primarily consisting of activities directly aiming at producing plans and arrangements or designs for new, altered or improved products, processes or services. For this purpose they may include prototyping, testing, demonstrating, piloting, large-scale product validation and market replication.

8 For the definition, see Article 2.1(14) of the Rules for Participation Regulation (EU) No 1290/2013: '**non-profit legal entity**' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

9 For the definition, see Article 2.1(14) of the Rules for Participation Regulation (EU) No 1290/2013: '**non-profit legal entity**' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

10 To be used only if option in Point (f) is used.

11 To be used only if option in Point (f) is used.

12 To be used only if option in Point (f) is used.

13 To be used only if option in Point (f) is used.

14 To be used only if option in Point (f) is used.

15 Insert precise name of the costs category (as in the Commission decision authorising the use of the unit cost/lump-sum). For example: 'access costs for providing trans-national access to research infrastructures'; costs for 'clinical studies'; costs for 'energy efficiency measures in buildings'.

16 Annex 2a must clearly show, for each beneficiary (and linked third party) concerned, all the parameters for the unit cost (i.e. the unit(s), the amount(s) per unit, the research installation/infrastructure for which it is used, the clinical study for which it is used, etc.).

1. Maximum grant amount

The maximum grant amount set out in this Article can NOT be exceeded.

⚠ The maximum grant amount can **NEVER** be **increased** — even if the eligible costs of the action are higher than planned.

The maximum grant amount is not the 'final grant amount' and is not a 'price' due to the beneficiaries.

2. Reimbursement rates

How much? The 'reimbursement rate' for RIA and CSA actions is normally **100%** of the total *eligible* costs[5]; for IA actions it is normally **70%** of the total eligible costs[6].

The eligible costs of **non-profit** beneficiaries/linked third parties participating in innovation actions may be reimbursed at **100%**[7].

5 *See Article 28(4) of the Rules for Participation Regulation No 1290/2013.*

6 *See Article 28(5) of the Rules for Participation Regulation No 1290/2013.*

In exceptional cases fixed in the work programme/call, **lower reimbursement rates** may apply.

As a general principle there is only one funding (reimbursement) rate per action, the same for all activities and all beneficiaries of the action (**one project — one funding rate**).

However, if non-profit beneficiaries/linked third parties are in the same innovation action together with profit beneficiaries/linked third parties, their eligible costs will be reimbursed according to their different reimbursement rates.

The reimbursement rate of a beneficiary does NOT condition the reimbursement rate of its linked third parties.

Example: *The beneficiary is entitled to 70 % but it has a linked third party entitled to 100 %. The linked third party will have a reimbursement rate of 100 % — despite the lower reimbursement rate of the beneficiary to which it is linked.*

The reimbursement rates apply to all forms of costs (actual, unit, lump sums and flat-rates costs)[8] and all budget categories.

⚠ The grant can **NEVER** reimburse **more** than the maximum grant amount fixed in Article 5.1.

3. Costs forms

The General MGA foresees options for all four cost forms (i.e. actual, unit, flat-rate and lump-sum costs)[9]. In practice, they are currently all used, except for lump sums (which are only used for SME Instrument actions).

Cost forms of the General MGA:

- **actual costs** (i.e. costs which are real and not estimated or budgeted) for:
  - **personnel** costs (— unless declared as unit cost; *see below*)

    Example: *EUR 62 500 actual yearly salary for senior researcher A*
  - **subcontracting** costs

    Example: *The actual price paid for the subcontracting of a clinical study*
  - costs of providing **financial support** to third parties (if option applies)

    Example: *The financial support actually paid to third parties*
  - **other direct costs** (— unless declared as unit cost; *see below*)

    Example: *EUR 2000 actual price for a computer*
- **unit costs** (i.e. an amount per unit) for:
  - personnel costs of **SME owners/natural persons** not receiving a salary[10]
  - personnel costs calculated by the beneficiaries in accordance with their usual cost accounting practices (**average personnel costs**)[11]
  - costs of **internally invoiced goods and services** calculated by the beneficiaries in accordance with their usual cost accounting practices

---

7 *See Article 28(5) of the Rules for Participation Regulation No 1290/2013.*

8 *See Article 28(6) of the Rules for Participation Regulation No 1290/2013.*

9 *See Articles 123, 124 of the Financial Regulation No 966/2012.*

10 Commission Decision C(2013) 8197 of 10 December 2013 authorising the use of reimbursement on the basis of unit costs for the personnel costs of the owners of small and medium-sized enterprises and beneficiaries that are natural persons not receiving a salary under the Horizon 2020 Framework Programme for Research and Innovation and under the Research and Training Programme of the European Atomic Energy Community (2014-2018). Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf.

11 *See Article 33(2) of the Rules for Participation Regulation No 1290/2013.*

- specific unit costs for:
  - costs for **energy efficiency measures** in buildings[12]
  - **access costs** for providing trans-national access to research infrastructure[13]
  - costs for **clinical studies**[14]
- **flat-rate costs** (i.e. costs calculated by applying a percentage fixed in advance to other types of eligible costs) for:
  - indirect costs (25% flat-rate for indirect costs; ⚠ new in Horizon 2020)[15]
- **lump sum costs** (i.e. a global amount deemed to cover all costs of the action or a specific category of costs).

Example: *EUR 150 000 to carry out a study within an action*

The General MGA currently does NOT use any lump sum costs.

Within a grant, different forms of costs can be used.

Example: *a budget category (e.g. personnel) covered by unit costs and another (e.g. equipment) by actual costs.*

The table below summarises the different budget categories and forms of costs that may be used in H2020 actions under the General MGA:

Forms of costs	Budget categories					
	Direct personnel costs	**Direct costs of sub-contracting**	**Direct costs of financial support to third parties (option used if Article 15 applies)**	**Other direct costs**	**Indirect costs**	**Specific cost categories (option used if Article 6.2 (F) applies)**
Actual costs	YES	YES	YES	YES	NO	NO
Unit costs	YES, only for: -costs established according to the usual cost accounting practices of the beneficiary -costs of SME owners and natural persons not	NO	NO	YES, only for: costs of internally invoice goods and services	NO	YES, only if foreseen by Commission Decision

[12] Commission Decision C(2013) 8196 of 10 December 2013 authorising the use of reimbursement on the basis of unit costs for energy efficiency measures in buildings under the Energy Challenge actions of the Horizon 2020 Framework Programme. Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_energy_en.pdf.

[13] Commission Decision C(2013) 8199 of 10 December 2013 authorising the use of reimbursement on the basis of unit costs for actions involving trans-national access under the Research Infrastructures Part of the Horizon 2020 Framework Programme. Available at https://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_tna-infra_en.pdf

[14] Commission Decision C(2014) 1393 of 7 March 2014 authorising the use of reimbursement on the basis of unit costs for actions requiring the conduct of clinical studies under 'Societal Challenge 1: Health, Demographic Change and Wellbeing' of the Horizon 2020 Framework Programme. Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit%20costs_clinical_studies.pdf

[15] *See Article 29(1) of the Rules for Participation Regulation No 1290/2013.*

	receiving a salary					
Flat-rate costs	NO	NO	NO	NO	YES	NO
Lump sum costs	NO	NO	NO	NO	NO	YES, only if foreseen by Commission Decision

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 *[Commission][Agency]* — when the payment of the balance is made (see Article 21.4) — in the following steps:

Step 1 — Application of the reimbursement rates 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 substantial errors, irregularities or fraud or serious breach of obligations

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

The reimbursement rate(s) (see Article 5.2) are applied to the eligible costs (actual costs, unit costs and flat-rate costs *[and lump sum costs]*; see Article 6) declared by the beneficiaries *[and linked third parties]* (see Article 20) and approved by the *[Commission][Agency]* (see Article 21).

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 *[Commission][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; if the income is generated from selling equipment or other assets purchased under the Agreement, the receipt is up to the amount declared as eligible under the Agreement;

(b) financial contributions given by third parties to the beneficiary *[or to a linked third party]* specifically to be used for the action, and

(c) in-kind contributions provided by third parties free of charge and specifically to be used for the action, if they have been declared as eligible costs.

The following are however not considered receipts:

(a) income generated by exploiting the action's results (see Article 28);

(b) financial contributions by third parties, if they may be used to cover costs other than the eligible costs (see Article 6);

(c) 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 from the amount obtained following Steps 1 and 2.

5.3.4 Step 4 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations — Reduced grant amount — Calculation

If the grant is reduced (see Article 43), the *[Commission][Agency]* will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the **errors, irregularities or fraud** or breach of obligations, in accordance with Article 43.2) 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.

1. Final grant amount

The final grant amount will be calculated by the Commission/Agency — at the end of the action (or in case of GA termination) —, in order to determine the balance to be paid.

The final grant amount will depend on two types of criteria:

- **work implementation criteria**, i.e. was the work carried out as described in Annex 1

  This is a technical analysis by the Commission/Agency of the work performed during the action, as compared with the activities set out in Annex 1 of the GA.
- **financial criteria**, including:
  - the amount of eligible costs
  - the reimbursement rates
  - the maximum grant amount *(see Article 5.1)*.

How to calculate the final grant amount:

Calculation of final grant amount

Step 1 — Application of reimbursement rate(s) to eligible costs

Step 2 — Limit to the maximum grant amount

The grant amount following Steps 1 and 2 is the lower of the two amounts.

Step 3 — Reduction due to the no-profit rule

Step 4 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations

The final grant amount is the lower of the following two amounts obtained following Steps 1 to 3 or following Step 4.

final grant amount

Step 1 — **Rejection of ineligible costs & application of the reimbursement rate(s)**

Ineligible costs (i.e. costs that do not comply with one or more cost eligibility conditions; *see Article 6*) will — if found at payment of the balance — be **rejected** (i.e. not approved).

If, for innovation actions (IA), there are different **reimbursement rates** for different beneficiaries, the Commission/Agency will apply the reimbursement rate for each beneficiary to the costs it has approved for that beneficiary.

Step 2 — **Limit to the maximum grant amount**

The contribution is limited to the maximum grant amount *(see Article 5.1)*.

Step 3 — **Reduction due to the no-profit rule & receipts**

Since the grant amount may not have the purpose or effect of producing a profit for the beneficiaries, the total funding requested + receipts is capped at the total eligible costs; the grant amount following Steps 1 and 2 plus receipts cannot exceed the approved costs.

If grant amount + receipts > total eligible costs ➔ reduction of grant amount

⚠ Profit is assessed at the level of the action, NOT at the level of the individual beneficiaries (⚠ new in Horizon 2020).

The grant amount, receipts and eligible costs taken into account are the *consolidated* grant amount (following Steps 1 and 2), the *consolidated* receipts and the *consolidated* approved costs.

The **receipts** that must be taken into account are receipts that are:

- established (i.e. revenue that has been collected AND entered in the accounts)
- generated (i.e. revenue that has not yet been collected, but which has been generated) or
- confirmed (i.e. revenue that has not yet been collected, but for which the beneficiary has a commitment or written confirmation)

during the action duration (see Article 3).

The following **are** considered '**receipts**':

- income generated by the action (i.e. any income generated by the action itself, including the sale of assets bought for the action and sold during the action duration)

  Examples: *admission fee to a conference organised by the consortium; sale of equipment bought for the action.*

  Receipts from the sale of assets are capped to the amount of costs declared for the asset.

  Example:

  Machine bought for EUR 21 000 in year X, sold in year X + 4 (both within the action duration) for EUR 16 000.

  The machine was used at 50% for the action, and fully depreciated in 3 years (7 000 EUR/year, of which 3 500 EUR/year were charged to the action)

  Amount of receipts to be declared: 50% of 16 000 with a limit of 10 500 (3 x 3 500) = EUR 8 000

- financial contributions given by third parties specifically to be used for the action (i.e. money given as a donation by a third party (a donor) to a beneficiary/linked third party specifically for the action covered by the GA)

- in-kind contributions provided by third parties free of charge specifically to be used for the action, if they have been declared as eligible costs (i.e. not

money, but an in-kind contribution free of charge given by a third party (a donor) specifically for being used for the action covered by the GA)

Examples: *the free use of equipment; the secondment of an expert without reimbursement*

Free of charge in-kind contributions are capped by the amount declared as third party costs for the contribution.

The following are **NOT** considered '**receipts**':

- in-kind contributions given by a **third party (donor)** free of charge — if they were not given specifically to be used for the action

  Example: *A university professor whose costs are charged by the beneficiary university in the GA, but whose salary is paid by the ministry and not reimbursed by the university: This in-kind contribution from a third party (the ministry) is not to be considered a receipt, unless the professor has been specifically seconded by the ministry to the university to work for the action in question. In other words, if the university is free to decide the allocation of the professor's work, then his/her contribution is assimilated to an 'own resource' of the university and it is not a receipt.*

- financial contributions given by a third party (donor) specifically to be used for the action — if they may be used according to the donor's rules to cover costs *other* than the eligible costs

  Example: *currency exchange losses*

- financial contributions given by a third party (donor) specifically to be used for the action — if the donor did not set the obligation to repay any unused amount at the end of the action

  In this case, the *full* amount of the financial contribution is considered not a receipt (not only the unused amount).

- financial contributions made **by one beneficiary to another** within the same action — since receipts are only contributions from *third parties*

  Conversely, such a financial contribution cannot either be declared as cost for the action.

  Example: *Beneficiary A (big company) in an innovation project (i.e. funded at 70%) decides to subsidise a small specialised SME by funding an additional 10% of the SME's costs in order to encourage it to participate in the action.*

- income generated by exploiting the results of the project (*e.g. the IPR*) — since successfully exploiting the results is one of the main objectives of the action

⚠ Receipts will be taken into account by the Commission/Agency only at the moment of the payment of the balance (i.e. the final payment at the end of the action). They must be declared in the final report.

In many cases they will not affect the grant amount since they do not lead to a profit (at the level of the action). However, particularly in actions funded at 100%, they may have an impact and cause a reduction.

Examples:

1. *Eligible costs: 100 and grant amount: 70*

If receipts: 30 ➔ no impact

If receipts: 20 ➔ no impact

If receipts: 60 ➔ the grant amount will be reduced to 40.

2. *Eligible costs: 100 and grant amount: 100*

If receipts: 0 ➔ no impact;

If receipts: 20 ➔ the grant amount will be reduced to 80

Best practice: The potential implications of receipts should be addressed in the consortium agreement *(see Article 41.3)*.

Step 4 — **Reduction due to substantial errors, irregularities or fraud or serious breach of obligations**

What? Serious breach of obligations refers to (non-exhaustive list):

- improper implementation of the action
- submission of false information
- failure to provide required information
- breach of ethical principles.

Proper implementation will be analysed by the Commission/Agency, comparing the work performed (according to the periodic and final technical reports) to the activities described in Annex 1. Improper implementation may lead to a grant reduction (i.e. reduction of the 'maximum grant amount'; see Article 5.1) — on a case-by-case basis (and only after a contradictory procedure with the coordinator or the beneficiary concerned; *see Article 43*).

Minor delays/deviations in the technical work foreseen in Annex 1 will not give rise to a grant reduction.

Example (reduction): *one of the 3 test plants was not built, and several testing activities were not carried out; breach of the obligation to display the EU emblem or to respect confidentiality of information identified as confidential.*

Examples (no reduction): *a deliverable is delayed by a couple of days because the researcher responsible is on sick leave; a scientific test has to be redone at a later time due to meteorological conditions*

⚠ A grant reduction is NOT a sanction, but the consequence of substantial errors, irregularities or fraud or serious breach of obligations under the GA.

Example for calculating the final grant amount:

Grant for a consortium with a maximum grant amount of EUR 3 000 000, where the eligible costs are reimbursed at 100%, and the indirect costs are calculated on the basis of a flat rate of 25% on the direct costs (minus subcontracting, costs incurred by third parties not used in the beneficiaries' premises and costs of providing financial support to third parties).

The total direct eligible costs of the consortium approved by the Commission/Agency are EUR 2 500 000.

One of the beneficiaries is sponsored for this project by a private company, with an amount of EUR 60 000 dedicated to the reimbursement of the remuneration of one young researcher, and another beneficiary (a university) receives as in-kind contribution from its government the secondment of a scientist specifically assigned to the project. The salary of this seconded scientist (EUR 80 000) is declared as eligible by this beneficiary, even if paid by the Government.

Both these contributions fit the definition of receipts (see above).EUR EUR

Rejection of ineligible costs and application of the reimbursement rates:

Eligible costs: EUR 2 500 000 direct costs (including EUR 200 000 for subcontracting) + EUR 575 000 for indirect costs (25 % flat rate on direct costs minus subcontracting) = EUR 3 075 000

Reimbursement rate: 100%

Amount obtained: EUR 3 075 000

Limit to the maximum grant amount:

The total eligible costs of EUR 3 075 000 are higher than the maximum grant amount of EUR 3 000 000. However, the maximum amount cannot be increased and therefore, it is limited to EUR 3 000 000.

Reduction due to the no-profit rule and receipts:

In the example above, the profit at the level of the action would be calculated by taking the surplus of EUR 3 000 000 (amount obtained after steps 1 and 2), plus the action's total receipts, over the action's total approved eligible costs (EUR 3 075 000):

3 000 000 + 60 000 + 80 000 = EUR 3 140 000.

Total eligible costs: EUR 3 075 000.

Profit: EUR 3 140 000 – EUR 3 075 000=EUR 65 000

Grant amount after reduction due to no-profit rule: EUR 3 000 000 – EUR 65 000 = EUR 2 935 000.

Reduction due to substantial errors, irregularities or fraud or serious breach of obligations:

Reduction of 2% of the maximum grant amount as the Coordinator of the consortium breached a confidentiality obligation of Article 36 GA, namely EUR 60 000→ 3 000 000 - 60 000 = EUR 2 940 000

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

- *the amount obtained after applying the reimbursement rates to the total eligible costs, within the ceiling of the maximum grant amount and after applying the no-profit rule (Step 1,2 and 3): 2 935 000*
- *the reduced maximum grant amount obtained in Step 4: 2 940 000.*

***Final grant amount**: EUR 2 935 000.*

5.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 22) — the *[Commission][Agency]* rejects costs (see Article 42) or reduces the grant (see Article 43), it will calculate the '**revised final grant amount**' for the beneficiary concerned by the findings.

This amount is calculated by the *[Commission][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 *[Commission][Agency]* for the beneficiary concerned;
- in case of **reduction of the grant**: by calculating the concerned beneficiary's share in the grant amount reduced in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations (see Article 43.2).

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

1. Revised final grant amount

If the Commission/Agency finds — after the payment of the balance — ineligible costs, substantial errors, irregularities or fraud or serious breach of obligations (and therefore **rejects the costs** and/or **reduces the grant**), it will revise the final grant amount, for each beneficiary concerned (i.e. at beneficiary level).

For **rejection of costs**: the Commission/Agency will deduct the amount rejected from the total eligible costs declared by the beneficiary in the final summary financial statement *(see Article 42.3)*. The revised final grant amount will be calculated by applying the reimbursement rate to the revised eligible costs of the beneficiary concerned.

Example:
Maximum grant amount: 500 000
There are three Beneficiaries A, B and C
Reimbursement rate: 100%
Direct eligible costs accepted for Beneficiary A at the payment of the balance: 150 000
Total eligible costs accepted for Beneficiary A at the payment of the balance = 150 000 + 25% (indirect costs) = 187 500
Costs rejected following audit: 30 000
Revised direct eligible costs: 120 000
Revised total eligible costs= 120 000 + 25% (indirect costs) = 150 000
Revised final grant amount: 100% of 150 000 = 150 000

⚠ If for the beneficiary the *revised* final grant amount is lower than its share of the *final* grant amount, there will be a **recovery** *(see Article 44.1.3)*.

For **reduction of the grant**:

- the Commission/Agency will reduce the maximum grant amount set out in Article 5.1, in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations *(see Article 43)*.

– calculate the revised final grant amount (for each beneficiary concerned), by allocating the amount of the reduction to each of them in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations to its improper implementation or breach of obligation

Example:

Maximum grant amount and final grant amount: 500 000.

There are three Beneficiaries A, B and C.

Reimbursement rate: 100%.

According to the estimated budget, beneficiary A was entitled to a maximum contribution of 200 000 for carrying out its work set out in Annex 1.

Total eligible costs accepted for Beneficiary A at the payment of balance: 187 500

1a: *The Commission finds that beneficiary A has implemented only 80% of its work provided for in Annex 1.*

Revised final grant amount of beneficiary A: 80% of the share of beneficiary A in the maximum grant amount: 80% of 200 000 = 160 000.

1b: *The Commission/Agency finds that beneficiary A breached its confidentiality obligations, which had an impact of the full action and for which the reduction rate is set at 2%.*

2% of the maximum grant amount = 10 000

The breach is entirely attributable to beneficiary A: 100% of the reduction is allocated to beneficiary A.

Revised final grant amount of beneficiary A: 187 500 – 10 000= 177 500.

⚠ If for the beneficiary the *revised* final grant amount is lower than its share of the *final* grant amount, there will be a **recovery** *(see Article 44.1.3)*.

For **rejection of costs AND reduction of the grant**: the revised final grant amount for the beneficiary concerned will be the lower of the two amounts above (i.e. after cost rejection or after grant reduction).

Example: *The revised final grant amount for beneficiary A will be 150 000 (the lowest between 150 000 (amount obtained following the rejection of ineligible costs) and 160 000/ 177 500 (amount following the reduction of the grant in the 2 examples above).*

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

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 20);

(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**:

(i) they must be calculated as follows:

{amounts per unit set out in Annex 2a or calculated by the beneficiary in accordance with its usual cost accounting practices (see Article 6.2, Point A and Article 6.2.D.5)

multiplied by

the number of actual units};

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

- the units must be actually used or produced in the period set out in Article 3;
- the units must be necessary for implementing the action or produced by it, and
- the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18);

(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 or unit costs *[or lump-sum costs]*) to which the flat-rate is applied must comply with the conditions for eligibility set out in this Article *[;][.]*

(d) ***[OPTION if lump sum foreseen in Article 5.2: for lump sum costs:***

(i) the eligible amount is equal to the amount set out in Annex 2, and

(ii) the corresponding tasks or parts of the action must have been properly implemented in accordance with Annex 1.]

1. Eligible costs

The grant can **only** reimburse **eligible costs** (i.e. costs that comply with the general and specific conditions set out in this Article) ('**reimbursement of eligible costs grant**').

ONLY **eligible costs** may be entered into the estimated budget for the action *(see Article 4) and* declared in the financial statements *(see Article 20)*.

Record-keeping & burden of proof — The **burden on proof** for eligibility is on the beneficiaries (and linked third parties). They must keep sufficient supporting documents *(see Article 18)* to show that the costs they declare are eligible.

Compliance with eligibility rules may be subject to a **check or audit** by the Commission/Agency. Any ineligible costs found will be **rejected** *(see Article 42)*.

If a beneficiary **declares ineligible costs**, the ineligible costs will be rejected and, if needed, other measures specified in Chapter 6 *(e.g. suspension, termination, grant reduction, etc.)* may be taken.

Article 6.1 refers to general eligibility conditions, applicable per cost form *(see Article 5)*.

Article 6.2 refers to specific eligibility conditions, applicable per budget category *(see Article 4)*.

For a consolidated list of eligibility issues relating to specific situations/legal framework in individual countries, *see the List of issues applicable to particular countries.*

2. General eligibility conditions for actual costs

In order to be **eligible**, actual costs must be:

- **actually incurred by the beneficiary** (i.e.:
  - real and not estimated, budgeted or imputed and
  - definitively and genuinely borne by the beneficiary (not by any other entity)).
- **incurred during the action duration** (i.e. the generating event that triggers the costs must take place during the action duration)

  The 'action duration' is the period running from the action starting date to the end date of the action *(see Article 3)*.

  If costs are invoiced or paid later than the end date, they are eligible only if the debt existed already during the action duration (supported by documentary evidence) and the final cost was known at the moment of the financial report.

  Costs of services or equipment supplied to a beneficiary (or to its linked third party) may be invoiced and paid after the end date of the action if the services or equipment were used by the beneficiary (or to its linked third party) during the action duration. By contrast, costs of services or equipment supplied after the end of the action (or after GA termination) are not eligible.

  Example: *A conference for which costs are claimed must take place during the action duration.*

- **entered as eligible costs in the estimated budget of the action**, under the relevant budget category *(see Annex 2)*

  When the final amount of the grant is calculated, the eligible costs cannot include costs under budget categories that did not appear in the action estimated budget, unless the initial estimated budget was amended or if these additional costs were approved in accordance with Articles 11 to 13.

  Costs included in the estimated budget may be transferred between beneficiaries and budget categories without amending the GA under the conditions set out in Article 4.2.

- **connected to the action as described in Annex 1** (i.e. necessary to achieve the action's objectives)

  The EU/Euratom grant cannot be used to finance activities other than those approved by the Commission.

  ⚠ **Project management —** Coordination and administration tasks are considered **action tasks**.

- **identifiable and verifiable** (i.e. come directly from the beneficiary's accounts (be directly reconcilable with them) and supported by documentation)

  The beneficiaries must be able to show (with records and supporting documents; *see Article 18*) the actual costs of the work, i.e. what was actually paid for the work (and for depreciation costs: what is actually recorded in the beneficiary's profit and loss accounts).

  Costs must be calculated according to the applicable accounting rules of the country in which the beneficiary is established and according to the beneficiary's usual cost accounting practices.

  Example: *if a beneficiary always charges a particular cost as an indirect cost, it must do so also for H2020 actions, and should not charge it as a direct cost.*

  This may NOT be used as an excuse for non-compliance with other GA provisions. A beneficiary must make any changes needed to bring its usual cost accounting practices in line with all GA provisions.

  Examples: *conditions for calculation of productive hours (see below); conditions for the eligibility of depreciation costs (in line with the international accounting standards, which may deviate from the accounting rules of the country)*

  ⚠ new in Horizon 2020: Accounting documentation is necessary only for direct costs. Indirect costs do not need supporting evidence because they are declared using a flat-rate.

- in **compliance with applicable national laws on taxes, labour and social security**

AND

- **reasonable, justified and must comply with the principles of sound financial management, in particular regarding economy and efficiency** (i.e. be in line with good housekeeping practice when spending public money and not be excessive)

  'Economy' means minimising the costs of resources used for an activity (input), while maximising quality; 'efficiency' is the relationship between outputs and the resources used to produce them.

  Examples:

  1. *The beneficiary may NOT increase the remuneration of its personnel, upgrade its travel policy or its purchasing rules because of the Commission/Agency support.*

  2. *Entertainment or hospitality expenses (including gifts, special meals and dinners) are generally not eligible.*

3. *Tips which are not obligatory are not eligible. By contrast, in some countries the invoice of the restaurant includes a certain mandatory amount as payment for the 'service'. In this case, the amount may be considered eligible — if the other eligibility conditions are fulfilled.*

Specific cases (actual costs):

In-kind contributions free of charge and **costs of linked third parties** — For in-kind contributions provided by third parties free of charge and costs of linked third parties, the eligibility rules apply *mutatis mutandis (see Article 6.3 and 6.4)*.

Thus, the costs must be:

- actually incurred by the third party
- recorded in the third party's accounting records
- calculated in accordance with the accounting standards applicable in the country in which the third party is established
- calculated according to the third party's usual cost accounting practices.

Depreciation costs for equipment used for the action, but bought before the action's start — If the equipment has not yet been fully depreciated according to the beneficiary's usual cost accounting practices, the remaining depreciation costs may be eligible (only for the portion corresponding to the action duration and for the rate of actual use for the action; *see Article 6.2.D.2*).

Costs related to preparing, submitting and negotiating the proposals — Cannot be declared as eligible for the action (they are incurred before the action starts).

Costs related to drafting the consortium agreement — Are not eligible because the consortium agreement should be signed before the action starts. However, costs related to updating the consortium agreement are eligible if incurred during the action duration.

Travel costs for the kick-off meeting — Even if the first leg of the journey takes place before the action starting date *(e.g. the day before the kick-off meeting)*, the costs may be eligible, if the meeting is held during the action duration.

Costs for reporting at end of the action — Costs related to drafting and submitting the periodic report for the last reporting period and the final report are eligible even if they are incurred after the action duration.

Those costs include the cost of certificates on the financial statements (CFS) required by the GA and the cost of participating in a final review carried out by the Commission/Agency before the submission of the final reports. They may also include the cost of personnel necessary to prepare the periodic report for the last reporting period and the final report. However, they do NOT include research or innovation activities undertaken after the end date of the action.

Personnel costs for ERA chairs — Are eligible even if the salary is above national salaries, provided that it does not go beyond normal EU/international salaries for similar positions (since the ERA chairs aim to incentivise international mobility for internationally outstanding researchers and research managers. When the level of remuneration of the ERA Chair is indicated in Annex 1, this will be duly taken into account in case of checks, audits or reviews.

Costs to allow for the participation of disabled people *(e.g. costs for sign language interpreters required for dissemination events organised under the action)* — May be eligible if they fulfil the general and specific eligibility conditions listed under Articles 6.1 and 6.2. The beneficiaries must keep records *(see Article 18)* to prove in case of an audit, check or review the actual costs incurred and that they were necessary for the implementation of the action.

3. General eligibility conditions for unit costs

In order to be **eligible**, unit costs must be:

- calculated by **multiplying** the **number of actual units** used to carry out the work *(e.g. number of hours worked on the action, number of tests performed, etc.)* or produced *(e.g. number of square meters for energy efficiency in buildings)* **by** the **amount per unit**

Example: *A Commission decision that sets the amount per unit for laboratory analyses at EUR 300 per test. This amount per unit is also set out in Annex 2a.*

- the **number of units** must be **necessary** for the action
- the units must be **used or produced during the action duration**

AND

- the beneficiaries must be able to **show the link** between the number of units declared and the work on the action.

The beneficiaries must be able to show (with records and supporting evidence; *see Article 18*) that the number of units declared was actually used for the action. (The actual costs of the work are not relevant.)

> ***Example:*** *A beneficiary which is a SME declares for its owner who does not receive a salary 300 hours worked for an action in 2014. If there is an audit, the SME beneficiary must be able to show a record of the number of hours worked by the owner for the action.*

Specific cases (unit costs):

Costs declared on the basis of the usual accounting practices— For two budget categories (A. personnel costs and D.5 costs of internally invoiced goods and services), costs may be declared not as a fixed unit cost, but on the basis of the beneficiary's usual cost accounting practices. In this case,:

- the beneficiary:
  - must calculate the costs according to its usual accounting practices
  - must budget and declare a total amount (not the units used)
- the amount per unit is not fixed in Annex 2a.

Other costs may NOT be declared according to the usual cost accounting practices. For them, the amounts per unit will be fixed by the Commission/Agency and set out in Annex 2a of the GA *(see Article 5.2)*.

4. General eligibility conditions for flat-rate costs

In order to be **eligible**, flat-rate costs must be:

- calculated by **applying** a **flat rate** to certain **costs** (whether actual, unit or lump-sum costs).

> ***Example (25 % flat rate for indirect costs):***
>
> *A SME beneficiary that charges costs of its owner without a salary is working on an innovation action and uses the EUR30 per hour unit cost fixed in Annex 2 for personnel costs. The SME beneficiary declares as eligible 300 hours of direct personnel costs for its owner + EUR 1 400 for other direct costs + EUR 1 500 for subcontracting for work in an innovation action during the first reporting period.*
>
> *Eligible direct costs: (30 X 300 = 9 000) + 1 400 + 1 500 = 11 900*
>
> *Eligible indirect cost: 25 % flat-rate of 9 000 + 1 400 (not the 1 500 for subcontracting) = EUR 2 600*
>
> *Total eligible costs: 11 900 + 2 600 = EUR 14 500.*
>
> *Reimbursement rate of 70 % (innovation action, 'for profit' beneficiary) = EUR 10 150.*

The beneficiaries must be able to show (with records and supporting evidence; *see Article 18*) that the costs to which the flat-rate is applied are eligible. (The actual indirect costs are not relevant.)

5. General eligibility conditions for lump sum costs

In order to be **eligible**:

- the lump sum costs must **correspond** to the amount of **lump sum** costs set out in Annex 2 and

- the **work** must have been **carried out** in accordance to Annex 1 of the GA.

The beneficiaries must be able to show (with records and supporting evidence; *see Article 18*) that the action tasks have been carried out as described in Annex 1. (The actual costs of the work are not relevant).

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. ***[OPTION 1 to be used if Article 15 applies:*** *direct costs of providing financial support to third parties;]* ***[OPTION 2:*** *not applicable*;**]**
D. other direct costs;
E. indirect costs;
F. **[*OPTION 1 for specific unit[/lump sum] costs:*** *[insert name(s) of specific cost category(ies)*[16]*]*]**[*OPTION 2:*** *not applicable*].

'**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 E below).

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

[16] Insert precise name of the cost category (as in the Commission decision authorising the use of the unit cost/lump sum. For example: 'access costs for providing trans-national access to research infrastructure', costs for 'clinical studies', costs for 'energy efficiency measures in buildings'.

1. Specific conditions for costs to be eligible

Article 6.2 refers to **specific eligibility** conditions, applicable per budget category.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

1. types of costs covered by the budget category
2. cost form under which the costs must be declared (i.e. actual costs, unit costs, flat rate)
3. eligibility conditions
4. how the costs must be calculated.

For a consolidated list of eligibility issues relating to specific situations/legal framework in individual countries, *see the List of issues applicable to particular countries.*

2. Direct costs

'Direct costs' are specific costs directly linked to the performance of the action and which can therefore be directly booked to it.

They are:

– either costs that have been caused in full by the activities of the action

- or costs that have been caused in full by the activities of several actions (projects), the attribution of which to a single action can, and has been, directly measured (i.e. not attributed indirectly via an allocation key, a cost driver or a proxy).

The beneficiaries must be able to show (with records and supporting evidence) the link to the action.

3. Indirect costs

'Indirect costs' are costs that cannot be identified as specific costs directly linked to the performance of the action.

In practice, they are costs whose link to the action can NOT be (or has not been) measured directly, but only by means of cost drivers or a proxy (i.e. parameters that apportion the total indirect costs (overheads) among the different activities of the beneficiary).

⚠ In Horizon 2020, indirect costs are declared as a **25% fixed flat-rate** of the eligible direct costs (minus certain direct eligible costs; *see Article 6.2.E*).

A. Direct personnel costs *[(not covered by Point F)]*

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).

Beneficiaries that are non-profit legal entities[17] may also declare as personnel costs **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.

'Additional remuneration' means any part of the remuneration which exceeds what the person would be paid for time worked in projects funded by national schemes.

Additional remuneration for personnel assigned to the action is eligible up to the following amount:

(a) if the person works full time and exclusively on the action during the full year: up to EUR 8 000;

(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

(c) if the person does not work exclusively on the action: up to a pro-rata amount calculated as follows:

{{EUR 8 000

divided by

the number of annual productive hours (see below)},

multiplied by

the number of hours that the person has worked on the action during the year**}**.

A.2 The **costs for natural persons working under a direct contract** with the beneficiary other than an employment contract are eligible personnel costs, if:

(a) the person works under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed);

(b) the result of the work carried out belongs to the beneficiary (unless exceptionally agreed otherwise), and

(c) the costs are not significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

A.3 The **costs of personnel seconded by a third party against payment** are eligible personnel costs if the conditions in Article 11.1 are met.

[17] For the definition, see Article 2.1(14) of the Rules for Participation Regulation No 1290/2013: 'non-profit legal entity' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

A.4 **Costs of owners** of beneficiaries that are small and medium-sized enterprises ('**SME owners**'), who are working on the action and who do not receive a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual hours worked on the action.

A.5 **Costs of 'beneficiaries that are natural persons'** not receiving a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual hours worked on the action.

[**A.6 [**OPTION to be used for trans-national access to research infrastructure: Personnel costs for providing trans-national access to research infrastructure** are eligible only if also the conditions set out in Article 16.1.1 are met.] [**OPTION to be used for virtual access to research infrastructure: Personnel costs for providing virtual access to research infrastructure** are eligible only if also the conditions set out in Article 16.2 are met.]]

Calculation

Personnel costs must be calculated by the beneficiaries as follows:

{{hourly rate

multiplied by

number of actual hours worked on the action},

plus

for non-profit legal entities: additional remuneration to personnel assigned to the action under the conditions set out above (Point A.1)**}**.

The number of actual hours declared for a person must be identifiable and verifiable (see Article 18).

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 one of the following:

(a) for personnel costs declared as **actual** costs (i.e. budget categories A.1, A.2, A.3 [*and A.6*]): the hourly rate is calculated per full financial year, as follows:

{actual annual personnel costs (excluding additional remuneration) for the person

divided by

number of annual productive hours}

using the personnel costs and the number of productive hours for each full 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.

As an alternative, beneficiaries may calculate the hourly rate *per month*, as follows:

{actual monthly personnel cost (excluding additional remuneration) for the person

divided by

{number of annual productive hours / 12}**}**

using the personnel costs for each month and (one twelfth of) the annual productive hours calculated according to either option (i) or (iii) above, i.e.:

- fixed number of hours or
- standard annual productive hours.

Time spent on **parental leave** may not be deducted when calculating the hourly rate per month. However, beneficiaries may declare personnel costs incurred in periods of parental leave in proportion to the time the person worked on the action in that financial year.

If parts of a basic remuneration are generated over a period longer than a month, the beneficiaries may include only the share which is generated in the month (irrespective of the amount actually paid for that month).

Each beneficiary must use only one option (per full financial year or per month) for each full financial year;

(b) for personnel costs declared on the basis of **unit** costs (i.e. budget categories A.1, A.2, A.4, A.5 [*and A.6*]): the hourly rate is one of the following:

(i) for SME owners or beneficiaries that are natural persons: the hourly rate set out in Annex 2a (see Points A.4 and A.5 above), or

(iii) for personnel costs declared on the basis of the beneficiary's usual cost accounting practices: the hourly rate calculated by the beneficiary in accordance with its usual cost accounting practices, if:

- the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

- the hourly rate is calculated using the actual personnel costs recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories.

  The actual personnel costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the personnel costs, reasonable and correspond to objective and verifiable information;

and

- the hourly rate is calculated using the number of annual productive hours (see above).

1. Direct personnel costs (A.): Types of costs — Forms — Eligibility conditions — Calculation

This budget category applies to all RIA, IA and CSA grants under the General MGA.

An additional option for access to research infrastructure (together with the corresponding Article 16 and other provisions) will be inserted into the GA if the action also involves access to research infrastructure.

The beneficiaries may declare the following **types of costs** as 'direct personnel costs':

- costs for **employees** (or equivalent):
- costs for **natural persons working** under a direct contract
- costs for **personnel seconded by a third party**
- costs for **beneficiaries that are SMEs for their owners not receiving a salary**
- costs for **beneficiaries that are natural persons not receiving a salary**
- personnel **costs for** providing **trans-national or virtual access to research infrastructure** (if option applies).

1.1 Direct personnel costs: Employees (or equivalent) (A.1)

1.1.1 What? Personnel costs for employees or equivalent (i.e. persons working for the beneficiary on the basis of an employment contract or equivalent appointing act) that worked in the action.

⚠ '**Equivalent appointing act**' means the appointing acts of civil servants (who do not sign employment contracts but receive official nominations for their posts).

⚠ ONLY costs for **personnel assigned to the action** (i.e. working for the action according to internal written instructions, organisation chart or other documented management decision) can be eligible. Reliable time records will normally be sufficient proof of the assignment to the action — unless there is other contradicting evidence *(e.g. the employment contract indicates that the person was hired to work on another project)*

It covers (and is limited to):

- **basic remuneration** (i.e. the payments for the employee's normal work and participation in projects — up to what is the beneficiary's usual remuneration practice for national projects)

and, in addition:

- for non-profit legal entities: **additional remuneration** (i.e. extra payments made for the participation in projects — above the beneficiary's usual remuneration practice for national projects).

⚠ **National projects** are to be understood in the large sense, meaning all types of projects funded under any type of national (public or private) funding scheme (including projects co-financed by EU funds that are managed by the Member States, *e.g. regional funds, agricultural and fisheries funds*).

Projects from EU programmes directly managed by the Commission/Agencies or their funding bodies *(e.g. LIFE, ERASMUS, Health, etc.)* do not, however, qualify as national projects (but as EU/international projects).

Both basic remuneration and additional remuneration do not only cover the payment itself (salary or bonus), but also the social security contributions *(mandatory employer and employee contributions)*, taxes included in the remuneration *(e.g. income tax)* and other costs and payments included in the remuneration *(e.g. a fee paid by the beneficiary for a complementary health insurance scheme for the employee).*

What not? Cost of persons who work for the beneficiary, but NOT with an employment contract or equivalent appointing act *(e.g. staff provided by a temporary work agency, seconded staff, self-employed persons with a direct contract with the beneficiary)*.

Staff provided by a temporary work agency — A contract with a temporary work agency qualifies typically as a purchase of services (unless the temporary work agency carries out directly some task of the action — in which case it would be considered as subcontracting). Thus, although NOT eligible as personnel costs, the costs can be charged under other budget categories (i.e. D.3 other goods and services or B. subcontracting), if they comply with the eligibility conditions *(e.g. best value for money and no conflict of interest; see Articles 10 and 13)*.

Seconded staff and **self-employed persons with a direct contract —** Can also be declared under other categories within the personnel costs *(see below, points 1.2 and 1.3)*.

1.1.2 Costs for employees (or equivalent) must be **declared** as:

- **actual personnel costs** (most common case)

OR

- **unit costs** in accordance with the usual cost accounting practices (average personnel costs; *see Article 5.2(a)*).

1.1.3 The costs for employees (or equivalent) must comply with the following **eligibility conditions**:

- **For basic remuneration**:

  - fulfil the **general conditions** for costs to be eligible (i.e. incurred during the action duration, necessary, etc.; *see Article 6.1(a) and (b)*)

    Payments of dividends to employees (profit distribution) are NOT eligible under *Article 6.5(a)(i)*. However, bonuses based on the overall financial performance of the organisation *(e.g. profitability or surplus)* may be accepted, if they fulfil the conditions set out below, i.e. as part of the usual remuneration practices for national projects and thus eligible as basic remuneration.

    Examples (positive):

    If the profit of the company at the end of the year is more that x € (or more than x %), each employee will receive a bonus of z % of his/her basic remuneration (or a fixed bonus of x € more as part of the gross salary).

    Examples (negative):

    If the profit of the company at the end of the year is more that X € (or more than X %), z % of that profit will be distributed to employees trough extra remuneration.

    Any part of the remuneration which is based on commercial targets or fund raising targets is NOT eligible (because neither incurred in connection with the work described in Annex 1 of the action nor necessary for its implementation).

    ***Examples**: x € for reaching a sales target; x % on sales; x € premium per externally funded project gained; x % of the external funding gained*

  - be paid in accordance with national law, the collective labour agreement and the employment contract/equivalent appointing act

    Examples:

    ***1.** The collective labour agreement establishes that all researchers may receive a bonus between EUR 100 and EUR 200 per month based on their seniority.*

    ***2.** The national law authorises public universities to pay a bonus based on merit of the employees.*

    ***3.** The contract fixes a premium of EUR 1000 for each research paper published in peer-reviewed international research journals.*

  - **exclude arbitrary bonuses** (i.e. bonuses which are not part of the beneficiary's usual remuneration practices and/or which are not based on objective conditions).

- **For additional remuneration** (in addition to the conditions above):

  - be a **non-profit legal entity**

  - be paid for the performance of **additional work** or **different expertise** than his/her usual tasks

    This is usually the case, since additional remuneration aims precisely to reimburse the additional work/expertise that is required for EU and international projects.

  - be **consistently applied** whenever the same kind of work or expertise is required and **regardless of the source of funding** used

    The additional remuneration may not differ according to *where* the funds come from. In particular, it cannot be set up for actions funded by a specific donor; additional remuneration schemes that are applicable only to EU projects are not acceptable.

    ***Example (not acceptable):** All professors carrying out research will be paid 10 % more when they work on EU-funded actions.*

    Also, they may not be subject to budget availability (i.e. only to be paid if there is remaining funds in the project budget).

However, the additional remuneration does not have to be the *same* for all persons working in the same project (provided that objective criteria are used to determine the differences).

⚠ **8000 EUR ceiling —** Additional remuneration is eligible **ONLY up to** a ceiling of **8000 EUR** annual costs; *see point 1.1.4*).

Specific cases (direct personnel costs for employees (or equivalent) (A.1)):

Teleworking — Remuneration costs of personnel not working on the premises of the beneficiary (i.e. teleworking) may be accepted as eligible, if it is the beneficiary's usual practice (i.e. if clear rules are available). The system in place must make it possible to both identify and record the hours worked for the action.

Benefits in kind — Costs of benefits in-kind provided by the beneficiary to its personnel *(e.g. costs of a company car made available to certain categories of employees for their own use)* or of quasi-financial benefits *(e.g. costs of lunch vouchers)* may be accepted as eligible, if they are justified and registered as personnel costs in conformity with the beneficiary's usual remuneration practices. Like all costs, they must fulfil the eligibility conditions set out in Article 6.

Recruitment costs — Recruitment costs are generally NOT eligible as direct costs, because the beneficiary is required to have the necessary human resources to implement the action. If a beneficiary needs to recruit additional personnel during the action, the related costs would be considered part of the entity's normal indirect costs, which are covered by the 25 % flat-rate.

Costs for students, PhDs and other researchers under scholarship, internship or similar agreements (not employees) — Costs of students that work for the beneficiary can be accepted, if the agreement is work-oriented (not training-oriented: i.e. not aimed at helping the student to acquire professional skills).

PhD agreements will be considered work-oriented. However, time for training, if any, may NOT be charged to the action.

Fellowships/scholarships/stipends — Can be charged to the action (as personnel costs), if they fulfil the conditions set out Article 6.1 and 6.2.A.2, and in particular:

- the remuneration complies with the application national law on taxes, labour and social security
- the assignment of tasks respects the laws in force in the country of the beneficiary
- the students have the necessary qualifications to carry out the tasks allocated to them under the action.

Cost for exemptions from academic fees — The fees (or part of them) are eligible as personnel cost, if the student's contract includes the amount of waived fees as part of his/her remuneration. The other conditions set out in Article 6 have to be fulfilled as well *(e.g. the full remuneration, included the value of the waived fees, must be recorded in the university's accounts)*.

Parental leave — Salaries and social security contributions paid during parental leave (either maternity leave or parental leave) are eligible as part of the basic remuneration only if:

- they are mandatory under national law, under the relevant collective labour agreement (e.g. statutory maternity pay) or under the employment contract
- the beneficiary has actually incurred them
- they are not reimbursed by national (central, regional or local) authorities (i.e. only the net amounts paid by the beneficiary are eligible).

Costs related to public officials — For public bodies, the costs related to public officials paid directly from central, regional or local government budgets may be considered eligible, if they fulfil the conditions set out in Article 6 (applied to the central, regional or local government employing the public officials). In this case, the public officials will be considered as in-kind contributions (resources made available) provided by a third party (the government) free of charge (see Article 12).

Supplementary contracts — Supplementary contracts for participation in projects (whatever their form) are acceptable if it is the beneficiary's usual practice and compatible with national law. The remuneration will be qualified as basic or additional remuneration, depending on the scope (national OR

EU/international) and amount (above, equal or below usual remuneration practices for national projects).

1.1.4 The **costs** must be **calculated** as follows:

In general, personnel costs for H2020 actions are calculated (for each person assigned to the action, including persons working exclusively on the action) as follows:

In practice, the calculation will differ (per type of beneficiary/employee) depending on the remuneration practices of the beneficiary:

Case 1: beneficiaries declaring personnel costs as actual costs

Case 1A: employee whose remuneration is not project-based (i.e. same remuneration, regardless if they are involved or not in specific projects)

Case 1B: employee whose remuneration is project-based (i.e. different remuneration levels, depending on whether they work in specific projects or not)

Examples:

1. *The beneficiary and the researcher sign a separate employment contract for the work of the person in the Horizon 2020 action. The hourly rate resulting from that additional employment contract is different from the hourly rate of the other employment contract of the person with the beneficiary.*

2.*The beneficiary has a remuneration scheme which includes the payment of a bonus for work in specific projects. The bonus is paid as part of the total salary of the person in addition to the basic salary and other general bonuses.*

3. *The employment contract of the person fixes a specific hourly rate to be paid for work in specific projects. This hourly rate replaces the standard salary of the person while it works in those projects.*

Case 2: beneficiaries declaring personnel costs as unit costs in accordance with the usual cost accounting practices (average personnel costs).

Additional remuneration is in practice an issue ONLY for case 1B beneficiaries. All other beneficiaries will automatically fall under 'basic remuneration only' and therefore are not concerned by the provisions on additional remuneration.

Case 1B beneficiaries need to differentiate between payments that are basic remuneration and payments that are additional remuneration. For them, the hourly rate charged to the action must be calculated using only basic remuneration (i.e. excluding any part that qualifies as additional remuneration). Additional remuneration may be charged (separately and on top), if the beneficiary is a non-profit entity, if that remuneration is eligible and only up to a ceiling of 8000 EUR per year.

⚠ ONLY **hours actually worked on the action** can be counted. Such hours must be registered via time records or, if the person works exclusively in the action, via a declaration (*see Article 18.1.2*).

⚠ **Double ceiling —** Beneficiaries must ensure that:

- the **total number of hours** worked **declared** in EU and Euratom grants for a person for a year is NOT higher than the number of **annual productive hours** used for the calculation of the hourly rate *(see below)*
- the **total** amount of **personnel costs declared** (for reimbursement as actual costs) in EU and Euratom grants for a person for a year is NOT higher than the total personnel costs recorded in the **beneficiary's accounts** (for that person for that year).

How to calculate direct personnel costs for employees (or equivalent):

For case 1A beneficiaries (actual costs, not project-based remuneration): 2 steps

Step 1 — **Calculation of the hourly rate (for each employee)**

The beneficiary must calculate, for each employee, the hourly rate to be charged to the action by using one of the following methods:

- **per full financial year** (main method): single hourly rate for each person for each full financial year
- **per month** (alternative method): one hourly rate for each person for each month (i.e. 12 hourly rates per person for each financial year).

Each beneficiary may choose any of the two options. However, the option chosen must be applied during the full financial year to all its personnel in all H2020 grants. If the beneficiary wants to change option, it can do so for the next financial year (— again for all its personnel in all its H2020 grants).

⚠ **Recalculations & adjustments of financial statements (exceptional) —** To benefit from this new option (i.e. hourly rate per month) beneficiaries may apply it retroactively for all grants on-going (i.e. for which the final report has not been submitted) on 20 July 2016 (i.e. date of adoption of the H2020 MGA version 3.0). The beneficiary may re-calculate costs already declared on the basis the full financial year by using the monthly calculation method. However, in that case it must do the recalculation for ALL personnel costs declared for that/those financial year(s) in ALL on-going H2020 grants. The beneficiary must declare the differences, either positive or negative, as adjustments in the next reporting period.

⚠ The grant agreement **formulas for the hourly rates are mandatory**. Those formulas may lead to minor/temporary differences with the personnel cost recorded in the accounts. Those differences have no impact on the eligibility of the costs, provided that the formula has been correctly applied and that the *double ceiling* explained above has been respected.

Calculation of the hourly rate *per full financial year*

Annual hourly rates must be calculated as follows:

for each person:

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

The rate must be calculated by ***full financial* year** (i.e. the 12-month period covered by the annual accounts of the entity).

Example: *When the financial year matches the **calendar year**, i.e. 1st January – 31st December, the hourly rate for the hours worked in 2014 will be calculated using the personnel costs and the productive hours from January to December 2014.*

When at the end of the reporting period there are months for which the financial year is not closed yet *(e.g. the financial year is still on-going; necessary information for that year is not yet available, etc.)*, the beneficiary must use the figures of the last closed financial year available to declare the costs for those months (i.e. use the hourly rate of the last closed financial year available also to calculate the personnel costs for the hours worked on those months).

Example: *Action with 1 reporting period of 18 months from 1.10.2015 to 31.3.2017. The beneficiary's financial year closes on 31 December of every year.*

Calculation of the hourly rate:

For hours worked on the action from 1.10.2015 - 31.12.2015: the hourly rate of 2015 must be used; i.e. hourly rate calculated on the basis of the annual personnel costs and annual productive hours of the closed financial year 2015.

For hours worked on the action from 1.1.2016 – 31.12.2016: the hourly rate of 2016 must be used; i.e. hourly rate calculated on the basis of the annual personnel costs and annual productive hours of the closed financial year 2016.

For hours worked on the action from 1.1.2017 – 31.3.2017: the hourly rate calculated for the last closed financial year available must be used, e.g. the one of the year 2016. Therefore, the beneficiary will not calculate another hourly rate for the period from 1.1.2017 - 31.3.2017. Instead, it will simply continue applying the hourly rate calculated for 2016 for the hours worked in 2017 until 31.03.

Last closed financial year available refers to the most recent *full* financial year for which all information necessary to calculate the hourly rates in accordance with the GA is available. Therefore, it is NOT necessary to wait until the annual accounts have been audited.

Financial year different from fiscal year — If the financial year is different from the fiscal year (i.e. the 12-month period used to calculate the income taxes), the entity may use the **fiscal yea**r instead of the financial year for calculating the hourly rate. The method must however be consistently applied and can NOT be changed within the same grant.

⚠ **No adjustments of financial statements —** Adjustments to the hourly rate are normally allowed ONLY for mistakes *(e.g. incorrect accounting information; error in the calculation; etc).*

Example: *An internal audit on the annual accounts of the beneficiary finds later errors in the accounting information used to calculate the hourly rates.*

Otherwise, costs that have already been declared can normally NOT be adjusted/changed (even if a recalculation of the hourly rate after the closure of the financial year would give another result).

The **annual personnel costs** may include only eligible personnel costs.

Any part of the remuneration which is paid once a year *(e.g. holiday pay)* will be taken into consideration for the hourly rate of the year in which it was accrued in the accounts.

For calculating the **annual productive hours**, the beneficiary must use one of the following three options:

- **option 1:** 1 720 hours for persons working full time (or corresponding pro-rata for persons not working full time) ('**1720 fixed hours**')
- **option 2:** the total number of hours worked by the person in the year for the beneficiary **('individual annual productive hours**')
- **option 3:** the 'standard number of annual hours' generally applied by the beneficiary for its personnel in accordance with its usual cost accounting practices **('standard annual productive hours')**.

In principle, the same option (1, 2 or 3) must be applied to *all personnel* working in H2020 actions. However, the beneficiary may use different options for different *types* of personnel, if:

- the same option is applied at least per group of personnel employed under similar conditions *(e.g. same staff category, same type of contract, etc.)* and
- the options are applied consistently *(e.g. the choice of the option is not changed ad-hoc for specific employees)*.

The beneficiary must keep the same option(s) for *the full financial year*. It can only change its option(s) for the next financial year.

⚠ **Absences & overtime —**

Absences: the three options treat absences (leave) in different ways:

- under option 1 (1720 fixed): ONLY actual time spent on parental leave (maternity and parental leave) may be deducted from the 1720 fixed hours. NO other leave *(e.g. sick leave, special leave, annual leave, etc.)* can be deducted.
- under option 2 (individual): the beneficiary must deduct all leaves (i.e. *actual time* on sick leave, parental leave or special leave, etc.) to calculate the annual productive hours.

  ⚠ In order to calculate the annual workable hours, the beneficiary has to deduct the annual leave entitlement (see example in the *table of options*). However, if the employment contract allows end-of-year transfers for leave entitlements (i.e. the days not taken one year can be taken the next one; days not taken are not paid out), the beneficiary may opt for deducting instead *actual time* of annual leave (if this is done consistently throughout the years).
- under option 3 (standard): the standard annual productive hours defined by the beneficiary normally take into account the standard time of absence in the organisation. However, the beneficiary may deduct on top the actual time spent on parental leave (maternity and parental leave) by the individual employee.

Overtime: all three options include potential overtime in the annual productive hours, either implicitly (options 1 and 3) or explicitly (option 2):

- under option 1 (1720 fixed): NO overtime may be added to the 1720 fixed hours
- under option 2 (individual): all overtime worked (paid or unpaid) must be added to the annual workable hours to calculate the annual productive hours
- under option 3 (standard): the standard annual productive hours defined by the beneficiary normally take into account the standard overtime hours in the organisation (if any).

⚠ **No impact on the hours worked —** The rules on the calculation of the *hourly rate* have no impact on the hours that can be declared *as hours worked on the action.* ALL hours worked on the action can be declared (normal hours and overtime) and all at the same hourly rate.

However, beneficiaries must make sure that they don't reach the double ceiling (i.e. number of annual productive hours used and costs recorded in accounts; *see above)*. If the overtime results in more hours worked/more costs declared over the ceiling, the exceeding hours worked can NOT be charged to the action (they must be capped at the ceilings).

Calculation of the hourly rate *per month*

Monthly hourly rates must be calculated as follows:

for each person:

{actual **monthly personnel costs**
divided by
{number of **annual productive hours/12**}**}**.

The rate must be calculated **for each month**.

The **monthly personnel costs** may include only eligible personnel costs.

If a part of the remuneration is generated over a period longer than a month *(e.g. the thirteenth salary)*, only the entitlement generated in the month can be included in the monthly personnel costs (— irrespectively of how much is actually paid in that month).

Example:

In accordance with the collective labour agreement, Ms T is entitled to a thirteenth salary (another full month salary in addition to her 12 monthly salaries) to be paid in July each year. The monthly salary of MS T is EUR 3 000.

The monthly personnel costs in July will be:

EUR 3 000 + {EUR 3 000 / 12} = 3 000 + 250 = EUR 3 250

The beneficiary can therefore NOT include the total of the thirteenth salary in the personnel costs for July, but must distribute it over the months in which it was generated (in this example 1/12 per month). Otherwise, the hours of July would be incorrectly priced at the double of the hours worked in normal months.

⚠ **Recalculations & adjustments of financial statements (exceptional) —** If a later event *(e.g. the unexpected leave of the employee)* means that the payments made for the employee are actually lower (i.e. that the monthly hourly rates were overstated) the beneficiary must recalculate the hourly rates with the correct amount. If some of the related personnel costs were already declared, the beneficiary must declare the difference as adjustment in the next reporting period.

If the monthly entitlement of an extra salary is not known in advance *(for example for an annual merit pay whose amount is decided in December — if eligible as basic remuneration —)* the beneficiary cannot take into account the extra salary until the amount is known. It may therefore recalculate the hourly rates at that moment and, if needed, declare the difference as adjustment in the next reporting period.

For calculating the **annual productive hours**, the beneficiary must use one of the following two options *(see the table of options above for the details on each option)*:

- **option 1:** 1 720 hours for persons working full time (or corresponding pro-rata for persons not working full time) ('**1720 fixed hours**')
- **option 3:** the 'standard number of annual hours' generally applied by the beneficiary for its personnel in accordance with its usual cost accounting practices **('standard annual productive hours')**.

⚠ Option 2 can NOT be used for monthly hourly rates because the individual annual productive hours — and thus also the monthly hours, i.e. 1/12 of the annual — are known only at the end of the financial year. It would be therefore impossible to calculate the hourly rates at the end of each month.

In principle, the same option (1 or 3) must be applied to *all personnel* working in H2020 actions. However, the beneficiary may use different options for different *types* of personnel, if:

- the same option is applied at least per group of personnel employed under similar conditions *(e.g. same staff category, same type of contract, etc.)* and
- the options are applied consistently *(e.g. the choice of the option is not changed at-hoc for specific employees)*.

The beneficiary must keep the same option(s) *during the entire financial year*. It can only change its option(s) for the next financial year.

⚠ **Absences & overtime —**

The same rules on the treatment of absences and overtime apply as for annual hourly rates, except that time spent on parental leave can NOT be deducted from the annual productive hours.

However, beneficiaries may charge to the action the *costs* incurred for parental leave (as personnel costs) in proportion to the time the person worked for the action during the financial year (time worked on the action over total productive hours for the year). This must be done separately and on top of the personnel costs declared by multiplying the hours worked for the action by the monthly hourly rates.

Example:

In 2015 Ms T has been five months in parental leave. During that time the social security reimbursed to the beneficiary 50 % of her salary. Her monthly salary was EUR 3 000 (reimbursement EUR 1 500). The beneficiary used option 1 (fixed 1720 hours) for the annual productive hours and Ms T worked in 2015 320 hours on the H2020 action.

Personnel costs incurred during parental leave= {EUR 3 000 x 5} - {EUR 1 500 x 5} = 15 000 – 7 500 = EUR 7 500

(Note: amounts reimbursed to the beneficiary by the social security are not actual costs for it and, therefore, must be deducted)

Proportion of time worked for the action in 2015 = Time worked for the action / Total productive hours excluding the parental leave = 320 / {1720 - {1 720 x 5/12}} = 320 / {1 720 – 716,7} = 320 / 1 003,3 = 31,89 %

Cost of parental leave for the H2020 action = EUR 7 500 x 31,89 % = EUR 2 391,75

⚠ **No impact on the hours worked —** The rules on the calculation of the *hourly rate* have no impact on the hours that can be declared *as hours worked on the action.* ALL hours worked on the action can be declared (normal hours and overtime) and all at the same hourly rate.

However, beneficiaries must make sure that they don't reach the double ceiling (i.e. number of annual productive hours used and costs recorded in accounts; *see above)*. If the overtime results in more hours worked/more costs declared over the ceiling, the exceeding hours worked can NOT be charged to the action (they must be capped at the ceilings). The ceilings apply per full financial year, not per month.

However, do not forget that your personnel costs must comply with national labour law.

Example:

If the national law provides for a prohibition for employees to work more than 48 hours per week, it is not possible to charge to the H2020 action 250 hours in a month for an employee.

Step 2 — **Multiplying the hourly rates by the hours worked on the action**

The hourly rate for the employee must be multiplied by the number of hours s/he actually worked on the action and this gives the amount that can be charged to the action.

For case 1B beneficiaries (actual costs, project-based remuneration): 4 steps

Step 1 — **Checking the nature of the remuneration (basic or additional) for each employee)**

The beneficiary must first find out, for each employee, if the remuneration it is paying is all basic remuneration or contains also additional remuneration.

To do this, the beneficiary must calculate **two reference hourly rates**:

- reference rate for the work on the H2020 action ('**action reference**')

and

- reference rate for the usual remuneration practice for national projects ('**national projects reference**').

If the action reference is *equal or below* the national projects reference, the remuneration is all basic remuneration. If it is *higher*, the exceeding part is additional remuneration and must be taken out for the calculation of the hourly rate to be charged to the action.

Step 1a — **Calculation of the reference hourly rates**

For the **action reference**: the beneficiary must calculate an hourly rate (either *annual* or *monthly*) based on the remuneration paid to the employee for his/her work in the H2020 action.

For *annual* reference rates:

{annual personnel costs for the person for his/her work in the action

divided by

number of hours worked for the action in the financial year}.

If the reporting period ends before the end of the financial year, the beneficiary must use the personnel costs and the hours from the beginning of the year until the end of the reporting period.

For *monthly* reference rates:

{monthly personnel costs for the person for his/her work on the action

divided by

number of hours worked for the action in the month}.

For the **national projects reference**: the beneficiary must calculate an hourly rate based on either:

- regulatory requirements *(e.g. national law or collective labour agreements)* setting up the level of remuneration to be paid for work in projects funded under national schemes — if those amounts were actually paid at least once before the submission of the H2020 proposal for work in a national project

  Example: *The national law establishes that the maximum monthly salary of engineers acceptable for national grants is EUR 4 000. Beneficiary A has paid that salary to its engineers while working in national grants. Beneficiary B has signed a collective labour agreement whereby the monthly salary to be paid for work under national grants is fixed at EUR 3 500. Beneficiary B has paid that salary to its engineers working in national grants.*

  Maximum amount acceptable as basic remuneration for beneficiary A = EUR 4 000/month for a person working full-time. If the remuneration of the person for the work in the H2020 action is more than this ceiling, the excess will qualify as additional remuneration.

  Maximum amount acceptable as basic remuneration for beneficiary B = EUR 3 500/month for a person working full-time. If the remuneration of the person for the work in the H2020 action was more than this ceiling, the excess will qualify as additional remuneration.

- internal rules setting up the level of remuneration to be paid for work in projects funded under national schemes — if those amounts were actually paid at least once before the submission of the H2020 proposal for work in a national project

  Example: *The internal rules of University Z provide that a professor working in externally-funded projects may get an extra salary of up to 50 % for the time its works for those projects. The maximum extra salary University Z has actually paid for work in national projects was 30 %.*

  Maximum amount acceptable as basic remuneration = salary of the person + 30 % (for the time worked in the H2020 action). If the remuneration of the person for the work in the H2020 action is more than this ceiling, the excess will qualify as additional remuneration.

or

- if none of these are available or if the beneficiary never had any national projects before the submission of the H2020 proposal: the average remuneration of the employee in the previous financial year.

The hourly rate of the national project reference must be calculated using 1720 fixed annual productive hours (unless there is an hourly rate directly set in the law, collective labour agreement or internal rules).

For the average remuneration of the employee, the beneficiary must moreover exclude remuneration that came from H2020 actions; i.e.:

{total annual personnel costs* for the person for year n-1 excluding remuneration paid for work in H2020 actions

divided by

1720** minus hours worked in H2020 actions in year n-1}

* The total annual personnel costs include all remuneration paid by the beneficiary to the person for work, irrespectively of the tasks of the person and the projects for which the person was working; but excludes all remuneration paid for work in H2020 actions. If the remuneration included ineligible items *(e.g. profit distribution, arbitrary bonuses)* those must also be removed.

** 1720 is the fixed number of annual productive hours. The beneficiary must remove from those annual productive hours the hours worked in H2020 actions. If in year n-1 the person worked exclusively in H2020 actions, the beneficiary must use the average salary of the last year in which the person did not work exclusively in H2020 actions *(e.g. year n-2 or year n-3)*.

If the national law or the internal rules set up different levels of remuneration for different categories of staff, the reference will be the one of the category to which the person belongs.

If the national law or the internal rules set up different remuneration levels for different types of national projects (or for different work within the projects), the reference will be the one applicable to the type of project/work that is closest to the H2020 action.

Example: *The internal rules of University Z provide that a professor working in basic research projects will receive 10 % extra salary; while a professor working in applied research projects will receive 15 % extra salary. Both extra salaries are systematically paid also for projects funded by national schemes. The H2020 action is an innovation action. The reference that would apply in this case is the extra salary for applied research projects (15 %) as the type of project is closer to the H2020 innovation action than basic research projects.*

The beneficiary must keep appropriate and sufficient evidence to support the action and national project references used *(see Article 18)*.

Example: *If the beneficiary uses the internal rules it must keep documental evidence of the internal rules applied, the category of the person (if applicable), and the payslip and payment documents proving that such remuneration was paid at least once prior to the submission of the proposal.*

Step 1b — **Comparing the action reference with the national project reference**

If the action reference is *higher* than the national project reference, the exceeding part is additional remuneration:

{total additional remuneration = difference between the two reference rates * number of hours worked on the action}

{total basic remuneration = national project reference rate * number of hours worked on the action}

If the action reference is *equal or lower* than the national project reference, there is no additional remuneration; the remuneration paid to the employee is all basic remuneration.

Example personnel costs with additional remuneration (Part 1 of 3):

1. *Ms R is employed full-time as professor at University X. She has a basic annual gross salary of EUR 24 000. The internal rules of the university provide that professors involved in research projects financed by external funders can get up to EUR 6 000 per month of full dedication to the*

project. However, due to budgetary restrictions the maximum that has been paid to any professor in a national project was EUR 4 800. Ms R worked in 2017 for the H2020 action 200 hours. For those hours she received an extra salary of EUR 6 500. She also participated in other projects generating other extras for her. So, her total gross annual salary was EUR 36 000. The hourly rate for the H2020 action is as follows:

The salary of Ms R varies depending on her participation in certain projects. Therefore, the beneficiary must assess if any part of that salary qualifies as additional remuneration. For that, it must compare the action reference with the national project reference:

Action reference rate = basic salary corresponding to the 200 hours worked for the action ((24 000 / 1720) x 200 = 2 790,70 €) + bonus paid for the action (6 500 €) = 9 290,70 € / 200 (hours worked in the action) = 46,45 €/hour (hourly rate)

National project reference rate (in this example based on the internal rules of the university applicable to national projects) = maximum salary paid for any professor working in a national project in accordance with the internal rules = 4 800 € / (1720 annual productive hour / 12 months) = 4 800 € / 143,33 hours = 33,49 €/hour

The Action reference (i.e. 46,45) is higher than the national project reference (i.e. 33,49). The excess (46,45 – 33,49 = 12,96 €/hour) qualifies as additional remuneration. Therefore:

The total basic remuneration = 33,49 €/hour x 200 (hours worked in the action) = 6 698 €

The total additional remuneration = 12,96 €/hour x 200 (hours worked in the action) = 2 592 €

(This example continues here for the calculation of the hourly rate)

***2.** Same situation as above, but in this case the work in the action has been done under a supplementary employment contract covering additional working hours (on top of the full-time contract of the professor).*

Action reference rate = 6 500 € (remuneration of the supplementary employment contract) / 200 hours (covered by that supplementary contract) = 32,50 €/hour

National project reference rate = 4 800 € / (1720 annual productive hour / 12 months) = 4 800 € / 143,33 hours = 33,49 €/hour

In this case, the action reference (i.e. 32,50) is lower than the national project reference (i.e. 33,49). Therefore, the beneficiary is NOT paying additional remuneration.

The total basic remuneration = 32,50 €/hour x 200 (hours worked in the action) = 6 500 €.

Step 2 — **Calculation of the hourly rate (for each employee; on the basis of basic remuneration)**

The beneficiary must then calculate the hourly rate to be charged to the action for the employee:

- **If** there is **additional remuneration**, the beneficiary must calculate the hourly rate using only the basic remuneration. In practice, this will be the action reference, capped at the national project reference (i.e. the hourly rate will normally be equal to the national project reference rate).

  Example personnel costs with additional remuneration (Part 2 of 3):

  ***1.** Ms R worked 200 hours over the financial year in the action. For that time she received a remuneration of 9 290,70 €. In the calculations made in part 1 of the example we identified that 2 592 € qualify as additional remuneration.*

  The hourly rate applicable to the action will be, therefore:

  (Actual annual personnel costs for the action - additional remuneration) / hours worked in the action over the year = (9 290,70 € - 2 592 €) / 200 = 33,49 €/hour.

  Personnel costs resulting from the hourly rate = 33,49 €/hour x 200 = 6 698 €.

  (This example continues here for the eligibility of additional remuneration)

- **If** there is **NO additional remuneration** (i.e. all is basic remuneration), the beneficiary can simply use the action reference as hourly rate to charge to the H2020 action.

  Example personnel costs without additional remuneration (Part 2 of 3):
  Ms R worked 200 hours over the financial year in the action. For that time she received a remuneration of EUR 6 500 through an additional contract.
  Action reference rate = 6 500 € (remuneration of the supplementary employment contract) / 200 hours (covered by that supplementary contract) = 32,50 €/hour
  National project reference rate = 4 800 € / (1720 annual productive hour / 12 months) = 4 800 € / 143,33 hours = 33,49 €/hour
  In this case, the action reference (i.e. 32,50) is lower than the national project reference (i.e. 33,49). Therefore, the beneficiary must use the action reference as hourly rate to charge to the H2020 action:
  Total personnel costs to be declared = 32,50 €/hour x 200 (hours worked in the action) = 6 500 €.

Step 3 — **Multiplying the hourly rate by the hours worked on the action**

After that, the hourly rate for the employee must be multiplied by the number of hours s/he actually worked on the action and this gives the amount of basic remuneration that can be charged to the action *(see examples in Step 2 above)*.

Step 4 — **For non-profit legal entities: addition of the additional remuneration (if any)**

If the beneficiary is a non-profit entity and the payments that are additional remuneration are eligible, it may also declare them to the action.

If the resulting amount (for the year) is above the **8000 EUR ceiling**, it must be capped:

Occupation	**Contract**	
	hired full time during the entire year	NOT hired full time during the entire year
working exclusively for the EU action during the full financial year	**EUR 8 000**	pro-rata amount of EUR 8 000
NOT working exclusively for the EU action during the full financial year	{8 000 / annual productive hours FTE} * hours worked for the action over the year	

The ceiling is *fixed* at EUR 8 000 per year for each full-time-equivalent (FTE), i.e. EUR 8 000 for a **full-time employee working exclusively for the action during the entire year**.

This ceiling covers not only the additional payment (bonus) but also the additional taxes, costs and social security contributions triggered by the additional payment.

For an **employee working exclusively for the action but not hired full time during the entire year**, the ceiling is reduced pro-rata.

Examples:

1. *A researcher employed part time by the beneficiary to work four days a week during the entire year would correspond to 0.8 FTE ➔ the ceiling would be fixed at EUR 8 000* 0.8 = EUR 6 400 per year.*

2. *A researcher employed full time to work for the action from January to March (i.e. for three months) would correspond to 0.25 FTE (3 out of 12 months) ➔ the ceiling would be fixed at EUR 8 000 * 0.25 = EUR 2 000.*

*If the researcher was employed part time (e.g. 80 %) ➔ the ceiling would be adjusted as follows: 8 000 * 0.25 * 0.80 = EUR 1 600.*

For **an employee not working exclusively for the action**, the ceiling is *calculated pro-rata*, based on the hours worked for the action. Therefore, additional remuneration is eligible up to a maximum of:

$$\frac{\text{EUR 8 000}}{\text{annual productive hours of an FTE}} * \text{hours worked by the employee for the action over the year}$$

Example personnel costs with additional remuneration (Part 3 of 3):

1. *Ms R worked 200 hours over the financial year. For that work she received 6 698 € of basic remuneration and 2 592 € of additional remuneration.*

If the beneficiary is a for-profit legal entity, the 2 592 € of additional remuneration would be automatically ineligible. The personnel costs which the beneficiary can charge to the action would be therefore 6 698 €.

If the beneficiary is a non-profit legal entity, additional remuneration may be eligible up to the ceiling. To calculate the eligibly part, you need to determine the pro-rata of the cap which corresponds to the 200 hours worked for the action:

(8 000 / 1 720) x 200 = 930,23 €

Although the beneficiary paid 2 592 € of additional remuneration, only 930,23 € are eligible. The difference (2 592 – 930, 23 = 1 661,77 €) is ineligible, since it exceeds the ceiling.

Therefore, the personnel costs which the beneficiary could charge to the action would be: 6 698 € of basic remuneration + 930,23 € of additional remuneration = 7 628,23 €.

For case 2 beneficiaries (unit costs in accordance with the usual cost accounting practices): 2 steps

Step 1 — **Calculation of the hourly rate (for each employee)**

The beneficiary can use the hourly rate(s) that it uses normally (usual cost accounting practices) as average personnel costs, provided that:

- the cost accounting practices are applied in a **consistent** manner, based on objective criteria, regardless of the source of funding
- the hourly rate is calculated using the **actual personnel costs recorded** in the beneficiary's **accounts**, excluding any ineligible cost or costs already included in other budget categories and
- the hourly rate is calculated using one of the **three options** provided in the MGA for the number of **annual productive hours** *(e.g. option 3 'standard annual productive hours')*.

The beneficiary must consistently apply its usual cost accounting practices, based on objective criteria that must be verifiable if there is an audit. It must do this no matter who is funding the action.

This does not mean that cost accounting practices must be the *same* for all types of employees, departments or cost centres of the beneficiary. If, for instance, the beneficiary's usual cost accounting practices include different calculation methods for permanent personnel and temporary personnel, this is acceptable. However, the beneficiary cannot use different methods for specific research actions or projects on an ad-hoc basis.

Example (acceptable usual cost accounting practices): *Individual (actual) personnel costs are used for researchers, average personnel costs (unit costs calculated in accordance with the beneficiary's usual cost accounting practices) are used for technical support staff.*

Example (unacceptable usual cost accounting practices): *Average personnel costs are used to calculate costs in externally-funded projects only.*

If necessary, the hourly rate must be adjusted to remove:

- cost elements that are ineligible under the GA (even if they are part of the beneficiary's usual methodology for determining the hourly rate).

  Example: *A beneficiary calculates the hourly rate in accordance with its usual cost accounting practices and includes taxes not included in remuneration. These are ineligible and must therefore be removed from the hourly rate declared for personnel working on the action.*

- costs that are already included in other budget categories (double funding of the same costs;

  Example: *Beneficiaries whose cost accounting practices include for the calculation of the hourly rate indirect costs under Article 6.2. These indirect costs must be removed from the pool of costs used to calculate the hourly rate charged to H2020 actions. In H2020 actions, indirect costs must be declared using a flat rate of 25 %, so personnel costs cannot include any indirect costs.*

Budgeted or estimated elements used to calculate the hourly rate can only be accepted if they:

- are relevant, i.e. clearly related to personnel costs
- are used in a reasonable way (i.e. do not play a major role in calculating the hourly rate)
- correspond to objective and verifiable information (i.e. their basis is clearly defined and the beneficiary can show how they were calculated)

Example: *Calculating average 2014 hourly rates by using 2013 payroll data and increasing them by adding the CPI (consumer price index) on which the basic salaries are indexed.*

Beneficiaries may request the **approval of the methodology** used by them, by submitting (via the following address: EC-H2020-UNIT-COST-METHODOLOGY-CERTIFICATION@ec.europa.eu) an audit certificate on their usual cost accounting practices *(see Article 18.1.2(b) and Annex 6)*. Costs declared in line with an approved methodology will not be challenged subsequently (unless the beneficiaries concealed information for the purpose of the approval).

Step 2 — **Multiplying the hourly rate by the hours worked on the action**

After that, the hourly rate for the employee must be multiplied by the number of hours s/he actually worked on the action and this gives the amount that can be charged to the action.

Specific cases (direct personnel costs for employees (or equivalent) (A.1)):

Persons working exclusively on the action — There is NO different calculation method for staff working 100 % on the action. (The percentage of time dedicated to the action does NOT make a difference for the way how personnel costs must be calculated; it matters only for the types of records that must be kept *(see Article 18.1.2)*). Therefore, the calculation method for personnel costs of Article 6.2.A (as chosen by the beneficiary) applies.

Since there is no obligation to keep time-sheets for periods covered by a declaration on exclusive work, beneficiaries should report:

- for annual hourly rates: a pro-rata of the annual productive hours corresponding to the period covered by the declaration (at the annual hourly rate)
- for monthly hourly rates: 1/12 of the annual productive hours for each month actually worked for the action in the period covered by the declaration (at the monthly hourly rate).

Example:

1a *Researcher Y worked exclusively in the action during the reporting period running from 1.10.2014 to 31.03.2016. Its actual annual personnel costs were EUR 32 000 for 2014 and EUR 34 400 for 2015. The beneficiary applies 1720 as annual productive hours and calculates annual hourly rates.*

The personnel cost to be reported would be calculated as follows:

	Hourly rate		Hours worked for the project	
2014 ➔	*(32 000 / 1720)*	*x*	*[(1720 / 12 months) x 3 (Oct, Nov, Dec)]*	
	18,60	*x*	*430*	*= 8 000*
2015 ➔	*(34 400 / 1720)*	*x*	*1720*	
	20	*x*	*1720*	*= 34 400*
2016 ➔	*The financial year is not completed so we use the 2015 hourly rate*			
	20	*x*	*[(1720 / 12 months) x 3 (Jan, Feb, Mar)]*	*= 8 600*
			TOTAL	*= 51 000*

1b *Researcher Y worked exclusively in the action during the reporting period running from 1.10.2014 to 31.03.2016. Its monthly personnel cost were 2 666,66 EUR in 2014, 2 860 EUR from January 2015 until October 2015 and 2 900 EUR from then on. The beneficiary applies 1720 as annual productive hours and calculates monthly hourly rates.*

The personnel cost to be reported would be calculated as follows:

	Hourly rate	x	Hours worked for the project =	Total	
2014 ➔					
October	*{[2666 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 666*	
November	*{[2666 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 666*	
December	*{[2666 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 666*	
			Total	*=*	*8 000**
2015 ➔					
January	*{[2860 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 860*	
February	*{[2860 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 860*	
March	*{[2860 EUR /(1720/12)]*	*x*	*(1720/12)} =*	*2 860*	

April	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
Mai	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
June	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
July	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
August	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
September	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
October	*{[2860 EUR /(1720/12)] x (1720/12)} =*		*2 860*	
November	*{[2900 EUR /(1720/12)] x (1720/12)} =*		*2 900*	
December	*{[2900 EUR /(1720/12)] x (1720/12)} =*		*2 900*	
		Total	*=*	*34 400*
2016➔				
January	*{[2900 EUR /(1720/12)] x (1720/12)} =*		*2 900*	
February	*{[2900 EUR /(1720/12)] x (1720/12)} =*		*2 900*	
March	*{[2900 EUR /(1720/12)] x (1720/12)} =*		*2 900*	
		Total	*=*	*8 700*
		TOTAL	*=*	*51 100*

* *Decimals have been rounded*

If the declaration covers months in which the person was **absent** for more than half of the working days those months can NOT be taken into account to calculate the hours worked in the action (— unless the absence is linked to annual leave AND the duration does not exceed the pro-rata of annual leave entitlements corresponding to the period covered by the declaration).

Example:

1. *Researcher Y worked exclusively in the action from1 July 2014 to 31 October 2014. In August it took three weeks of holidays and in September it was 10 days on sick leave. The beneficiary applies 1720 as annual productive hours*

Number of hours that can be charged to the action based on the declaration = 3 months (July, September and October) x (1720 / 12) = 3 x 143,33 = 430 hours

August is not taken into account because the person was absent more than half of the working days, since s/he took three weeks of holidays.

2. *The person has the right to two working days of annual leave per month worked. The period covered by the declaration is from January to September (i.e. 9 months). Therefore, the leave entitlement of the person for that period is 9 x 2 = 18 working days. The person takes 3 weeks of annual leave in August. August could also be counted because the leave taken (i.e. 15 working days) is less that the leave entitlement for that period (i.e. 18 working days).*

Employees hired during on-going financial year (at the end of the reporting period) **—** Since these employees did not work for the beneficiary during the last financial year, the annual hourly rate can only be calculated on the basis of the personnel costs incurred during the ongoing financial year.

Example: *The reporting period runs from 1.10.2014 to 31.03.2016. The beneficiary hires a new employee on 1.2.2016 ➔ the hourly rate would be calculated taking into account his/her personnel costs for February and March 2016.*

In order to avoid calculation errors, it is particularly important to determine the pro-rata of the annual productive hours correctly *(e.g. if 1 720 hours are used, the productive hours for the period February-March would be 1 720 /12 * 2 = 287)*.

End-of-contract indemnities — Since the entitlement to end-of-contract indemnities is most often generated over a period of time longer than a financial year, the beneficiary may charge the indemnity in the reporting period in which the employee's contract ends — but outside the hourly rate (i.e. separately and on top of the personnel costs declared on the basis of the hourly rate) AND only for the part that corresponds to the time worked by the person on the action (i.e. pro-rata of the total time during which the entitlement was generated).

Moreover, the indemnity can be accepted ONLY if it:

- arises from the applicable national labour law and
- is recorded in the accounts of the beneficiary and
- is incurred during the action duration (although the actual payment may take place latter).

Employment contract remunerated per hour — For employment contracts that do not establish a fixed salary and a number of hours to be worked but only an amount to be paid for each hour worked by the employee, individual annual productive hours (i.e. option 2) can only be applied if all of the following conditions are fulfilled:

- the employment contract explicitly fixes the hourly rate to be paid
- the employment contract established that the salary is the result of multiplying the hourly rate by the number of hours worked
- the total salary paid under the employment contract is identifiable and supported by auditable documents *(e.g. payslips and declarations to the tax authorities)*

- the employment contract is the only contract between the person and the entity (i.e. there is no other parallel contract).

If those conditions are fulfilled, the individual annual productive hours can be calculated as follows:

{total salary paid to the employee in the financial year

divided by

hourly rate fixed in the employment contract}.

This summary table explains the three **different options** for **annual productive hours (for case 1A and case 2 beneficiaries)**:

Options	What does it mean?	When can it be used? How should it be used?	What happens if you make a mistake?
Option 1 **1 720 fixed hours**	The number of hours is fixed for full-time employees (and it is pro-rata for employees working part-time or working only part of the year for the beneficiary).	Can be used **in all cases**; any beneficiary can use this option. A pro-rata of 1720 hours can be used if: – the employee has not worked the full year for the beneficiary or – the employee's contract explicitly states (or allows to determine) a precise percentage of a full-time-equivalent covered by such contract. ***Examples (pro-rata calculations):*** ***1.*** *Researcher X worked for Beneficiary Z from 1 October to 31 December; i.e. 3 full months. The pro-rata of the annual productive hors would be calculated as follows:* *1720 / 12 (months) * 3 (October, November, December) = 430 productive hours* ***2.*** *The contract of Researcher Y with Beneficiary Z establishes that it must work 20 hours per week, while a full-time employee at Beneficiary Z works 40 hours per week. Working days and leave entitlements are the same. The annual productive hours would be calculated as follows:* *1720 * [20 hours (Researcher Y) / 40 hours (full-time employee)] = 1720 * 50 % (part-time percentage) = 860 productive hours*	
Option 2 **Individual annual productive hours**	The number of hours is calculated on the basis of the 'annual workable hours' of the employee (i.e. the total number of hours for which a employee is working for the beneficiary, including the overtime worked and absences *(such as sick leave*	This option can be used, if: – the number of 'individual annual productive hours' is calculated according to the formula specified in the GA {annual workable hours of the person (according to the employment contract, applicable labour agreement or national law) plus	If our the auditors find that a beneficiary made a mistake, the Commission/Agency will recalculate the eligible costs as follows: – if the calculation method was not consistently applied *(e.g. the beneficiary used option 2 for one employee and option 3 for another employee employed under similar conditions)*:

	or other types of special leave).	overtime worked
		minus
		absences (such as sick leave and special leave)}
		– the 'annual workable hours' are established according to one of the following:
		  – employment contract of the person concerned
		  – applicable collective labour agreement
		  – national law on working time.
		  Example: *contract stipulating 35 hours of work per week*
		– this calculation method is consistently applied (per group of personnel under similar conditions).
		Example for calculation of individual annual workable hours:
		X is a full-time researcher (working eight hours per day, from Monday to Friday) at Research Centre Z. X's contract includes 22 working days of annual leave, plus 8 days of public holidays. In the financial year covered by the reporting period in question, X worked 29 hours of overtime and was on sick leave for 5 days.
		The individual annual workable hours would therefore be:
		365 days — 104 days (Saturdays and Sundays) — 22 days (annual leave) — 8 days (public holidays) = 231 days x 8 hours per day = 1 848 hours
		Individual annual productive hours for Researcher X:
		Annual workable hours = 1 848
		+ overtime (hours) = 29
		- annual sick leave (5 days x 8 hours) = 40
		➔ individual annual productive hours for Researcher X = 1 837
		Research Centre Z may use 1 837 as individual annual productive hours for this researcher.
		⚠ This option can NOT be used if the employment contract, collective labour agreement or national law does not allow to determine the number of individual annual workable hours.
			the auditors will adjust the number of annual productive hours by applying option 2 to all persons concerned, where possible.
			– if the employment contract, applicable collective labour agreement or national working time legislation does not allow to determine the number of individual annual workable hours: the auditors will apply option 1.
			– if not *all* annual workable hours were included, the auditors will recalculate the productive hours to include all workable hours.

Option 3 **Standard annual productive hours**	The number of hours is calculated on the basis of the 'standard annual productive hours' generally applied by the beneficiary for its personnel, in accordance with its usual cost accounting practices. The standard annual productive hours may be calculated for the entity as a whole, per category of personnel, per cost centre, etc. The beneficiary may include or exclude certain activities *(e.g. general training, general meetings etc.)* when calculating the standard annual productive hours, if this is in line with its usual cost accounting practices.	This option can be used if: – the number of standard annual productive hours is calculated in accordance with the beneficiary's usual cost accounting practices – this calculation method is consistently applied (per group of personnel under similar conditions) – the number of standard annual productive hours is at least 90% of 'standard annual workable hours' The standard annual workable hours is the standard number of hours that a full time employee of the group having the same standard productive hours ('reference group', *e.g. a category of employees, employees of a cost centre, etc.*) must be present at work under normal circumstances, as defined in: – the employment contracts of the reference group – an applicable collective labour agreement or – the national law on working time. If its number of standard annual productive hours is **higher** than 90%, the beneficiary must use the number of standard annual productive hours. If its number of standard annual productive hours is **lower** than 90%, the beneficiary must use the 90% or choose one of the other options. ***Example for calculation of standard annual workable hours:***	If our the auditors find that a beneficiary made a mistake, the Commission/Agency will recalculate the eligible costs as follows: – if the standard annual productive hours were calculated not in accordance with the beneficiary's usual cost accounting practices, the auditors will adjust the number of annual productive hours by applying option 2, if possible; – if the calculation method was not applied consistently, the auditor will adjust the number of annual productive hours by applying option 2, if possible; – if there is no applicable reference for the standard annual workable hours, the auditors will apply option 1; – if the number of standard annual productive hours used by the beneficiary was lower than 90% of standard annual workable hours, the auditor will use either the 90% of workable hours or option 1, whichever is more favourable for the beneficiary. – if the two first indents in the middle column (number calculated in accordance with usual accounting practices AND calculation method consistently applied) are fulfilled but the beneficiary uses 90% of standard annual

		Full-time researchers hired by Research Centre Z have an employment contract that states that they must work eight hours per day, from Monday to Friday. National legislation provides for 22 working days of annual leave, plus eight days of public holidays. The applicable collective labour agreement adds three extra days of annual leave. *The standard annual workable hours for Research Centre Z would therefore be:* *365 days — 104 days (Saturdays and Sundays) — 22 days (annual leave) — 8 days (public holidays) — 3 days (collective agreement) = 228 days * 8 hours per day = 1 824 hours* *Standard annual productive hours for Research Centre Z:* *Research Centre Z would like to use its usual cost accounting practices to calculate the hourly rates for EU actions. It calculates the number of standard annual productive hours as follows:* *Annual working days = 228* *- average annual sick leave (days) = 3* *- days of general training = 4* *- other unproductive activities (days) = 9* *➔ productive days = 212* *Multiplied by 8 working hours per day* *➔ standard annual productive hours = 1 696* *This number of standard annual productive hours must then be compared with 90% of standard annual workable hours (in this example 1 824).* *90% of 1824 = 1 642* *1 696 hours (usual cost accounting practice) > 1 642 hours (90% annual workable hours)* *Research Centre Z may apply its number of standard annual productive hours (i.e. 1 696) to EU actions since the number is higher than 90% of annual workable hours.* *If its number of standard annual hours is lower than 1 642 (e.g. 20 days of other unproductive tasks instead of 9 ➔ 1 608 annual productive hours), Research Centre Z must apply 1 642 hours (90% of the annual workable hours).*	workable hours instead of the number of annual productive hours arrived at by using its usual accounting practices (higher than 90%), the auditor will adjust the number of productive hours to the higher number.

		If its number of standard annual productive hours is higher than 90% (in our example it is 93%: 1 696/1 824), Research Centre Z must use this number (and not 90% of annual workable hours). ⚠ This option can NOT be used if the employment contract, collective labour agreement or national law does not allow to determine the number of annual workable hours for the group of personnel. ***Example (no applicable reference for standard annual workable hours):*** *A researcher carries out research for the beneficiary for a fixed salary per month. However, the employment contract does not allow to determine the number of hours to be worked. There is no applicable collective agreement and national legislation does not regulate the number of workable hours per year for this type of labour agreement.* *In this case, there is no applicable reference for standard annual workable hours. Therefore, the beneficiary must use option 1 (1 720 fixed hours).*	

1.2 Direct personnel costs: Natural persons with direct contract (A.2)

1.2.1 What? This budget category **covers** typically the costs of **in-house consultants** and similar persons (i.e. **self-employed *natural* persons**) that worked on the action for the beneficiary under conditions similar to those of an employee, but under a contract which is NOT legally the same as for employees. It regards, in particular, contracts qualified as quasi-subordinate work contracts under national law when the conditions under which the work is carried out are similar to those of an employee.

What not? Staff provided by another entity against a price, including staff provided by a temporary work agency (because in this case there is no direct contract between the person and the beneficiary; the contract is not with the beneficiary but with the entity hiring the person).

> **Staff provided by a temporary work agency —** A contract with a temporary work agency qualifies typically as purchase of services (unless the temporary work agency carries out directly some task of the action — in which case it would be considered as subcontracting). Thus, although NOT eligible as personnel costs, the costs can be charged under other budget categories (i.e. D.3 other goods and services or B. subcontracting), if they comply with the eligibility conditions (especially best value for money and no conflict of interest; see *Articles 10 and 13*).

1.2.2 Costs for natural persons working under a direct contract may be **declared as:**

- **actual costs** (most common case)

OR

- **unit costs** in accordance with the usual cost accounting practices (average personnel costs; *see Article 5.2(a)*).

1.2.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for costs to be eligible (i.e. incurred/used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a) and (b)*)
- there must be a **direct contract** between the natural person (individual) and the beneficiary

  The contract cannot be with a third party legal entity *(e.g. a temporary work agency),* even if that third party is a one-person company.
- the person must work **under conditions similar to those of an employee,** in particular:

> ⚠ **Similar does not mean equal —** The working conditions of the person do NOT have to be exactly the same that those of an employee, but overall similar.

  - the beneficiary must organise and supervise the work of the person in a way similar to that of its employees

    Example (acceptable):

    The beneficiary's project leader and the person discuss regularly the work to be carried out for the action. The project leader decides the tasks and timing of the work and instructs the person accordingly.

    Example (not acceptable):

    The beneficiary's project leader and the person meet only once a month or irregularly, for updates on the state of play of the entrusted work. If changes are needed, they have to be agreed by the person and may lead to a change of the amount charged to the beneficiary.

  - the beneficiary must be able to ensure reliable time recording (for the hours that the person works for the action)

⚠ **Record-keeping —** The beneficiary must keep records of the hours which the person worked for the action *(e.g. time-sheets etc.; see Article 18.1.2)*.

– the person is subject to similar presence requirements as the employees.

Examples (acceptable):

The person works physically at the beneficiary's premises, following a time schedule similar to that of the employees (e.g. the beneficiary authorises up to two days of teleworking per week to its personnel and the person has chosen to benefit from this regime, i.e. works 2 days in teleworking and 3 days physically at the beneficiary's premises).

Example (not acceptable):

The entity authorises up to two days of teleworking per week. However, the person works four days in teleworking and only one day at the beneficiary's premises.

- the **result** of the work carried out (including patents or copyright) must in principle **belong to** the **beneficiary**

  If (exceptionally) they belong to the person, the beneficiary must (just like for employees) obtain the necessary rights from the person (transfer, licences or other), in order to be able to respect its obligations under the GA *(see Article 26.3)*.

- **not** be **significantly different** from costs for employees performing similar tasks

  The remuneration must be based on working time, rather than on delivering specific outputs/products.

1.2.4 Costs of natural persons working under a direct contract for a beneficiary must be **calculated** according to the same **rules** as explained in point 1.1.4 (i.e. hourly rate multiplied by the number of actual hours worked on the action).

However, for the **actual costs hourly rate**, the beneficiaries must use one of the following options:

– if the contract specifies an hourly rate: this hourly rate must be used

– if the contract states a fixed amount for the work and the number of hours to be worked: the global amount for the work must be divided by the number of hours to be worked

– if the contract states a fixed amount for the work but does not specify the number of hours to be worked: the global amount for the work must be divided by the pro-rata of 1 720 annual productive hours which corresponds to the duration of the contract over the financial year.

Example: *The contract provides that the person will work at the beneficiary's premises for assisting in research tasks. The contract is for 6 months starting on 1 January 2017 and ending on 30 June 2017. According to its time records, the person worked 500 hours in the H2020 action over that period. The contract sets a monthly payment of EUR 3 000 but does not explicitly establish the number of hours to be worked.*

Personnel costs for the action = hourly rate x 500 (hours worked in the action)

Hourly rate = annual personnel costs / annual productive hours = (3 000 € x 6 months) / (1 720 hours x (6 months/12 months)) = 18 000 € / (1 720 x 0,5) = 18 000 € / 860 hours = 20,93 €/hour

Personnel costs for the action = 20,93 x 500 = 10 465 €.

For the **unit costs** hourly rate (average personnel costs), the rules in point 1.1.4 apply without any changes.

This summary table explains how to treat **different types of work contracts** for declaring costs under H2020[16]:

Characteristics of the contract	**Contract remunerating time** *(e.g. the contract establishes that the person must work for the beneficiary 40 hours per week)*	**Contract not specifying the working time conditions)** *(e.g. the contract establishes the tasks, but the time to be worked (hours) is not defined in the contract, collective labour agreement or national law)*
The contract is an employment contract, i.e.: – recognized as such by the national labour law AND – the hiring entity pays social security contributions for the hired person	**CASE A** **This is the standard situation**. The costs may be declared in category A.1 'employees (or equivalent)' (Article 6.2.A.1). They must be calculated as described in Article 6.2.A. Calculation (point 1.1.4): ➔ The beneficiary may choose among the three options for annual productive hours to calculate the hourly rate.	**CASE B** The costs may be declared in category A.1 'employees (or equivalent)' (Article 6.2.A.1). They must be calculated as described in Article 6.2.A. Calculation (point 1.1.4); however: ➔ Only option 1 (i.e. 1720 annual productive hours) can be used to calculate the hourly rate. ➔ If the employment contract does not cover the full financial year, the annual productive hours must be calculated as a pro-rata of 1720. *Example: Contract from 01.01.2015 to 31.03.2015. Annual productive hours = (1720/12) x 3 (Jan, Feb, Mar) = 430*
Other contract (i.e. not an employment contract)	**CASE C1:** the costs fulfil the conditions of Article 6.2.A.2. The costs may be declared in category A.2 'natural persons with direct contract' (Article 6.2.A.2). The costs must be calculated as described in point 1.2.4. **CASE C2:** the costs do NOT fulfil the conditions of Article 6.2.A.2. The costs can NOT be declared in category A. 'personnel costs'. They must be treated like CASE D1.	**CASE D1:** the costs do NOT fulfil the conditions of Article 6.2.A.2. The costs can NOT be declared in category A 'personnel costs'. However, they may be eligible under another budget category: – if the contract covers tasks described in Annex 1: in category B 'subcontracting' (Articles 6.2.B and 13) or – in category D.3 'other goods and services' (Articles 6.2.D.3 and 10). ⚠ The beneficiary must award the contracts ensuring best value for money and avoiding any conflict of interests *(see Articles 10 and 13)*.

[16] These explanations do NOT apply to **SME owners** or **beneficiaries that are natural persons** not receiving a salary *(see Article 6.2.A.4 and 6.2.A.5)*.

		CASE D2: the costs fulfil the conditions of Article 6.2.A.2. The costs can be declared in category A 'personnel costs'. They must be calculated as described in Article 6.2.A. Calculation (point 1.2.4); however: ➔ Only option 1 (i.e. 1720 annual productive hours) can be used to calculate the hourly rate. ➔ If the contract does not cover the full financial year, the annual productive hours must be calculated as a pro-rata of 1720.

1.3 Direct personnel costs: Seconded personnel (against payment) (A.3)

1.3.1 What? This budget category **covers** the costs of persons that worked on the action and that were **seconded** by a third party as an in-kind contribution ***against payment*** *(see Article 11)*.

What not? Persons provided by a temporary work agency, secondment of staff between beneficiaries (or linked third parties) in the same grant or secondment by a third party free of charge.

Staff provided by a temporary work agency — A contract with a temporary work agency qualifies typically as a purchase of services (unless the temporary work agency carries out directly some task of the action — in which case it can be considered as subcontracting). Thus, although NOT eligible as personnel costs, the costs can be charged under other budget categories (i.e. D.3 other goods and services or B. subcontracting), if they comply with the eligibility conditions (especially best value for money and no conflict of interest; see *Articles 10 and 13*).

Secondment of staff between beneficiaries (or linked third parties) — Is allowed, but it is the beneficiary/third party who employs the person who has to declare its costs (NOT the beneficiary/third party to whom the person has been seconded). The costs declared must be supported by reliable time records of the number of hours the person worked for the action. Those time records must be produced under the responsibility of the beneficiary/third party to whom the person is seconded

Persons seconded free of charge — Costs for persons seconded free of charge (i.e. the third party's costs) can be declared as personnel costs by the beneficiary, if they fulfil the conditions of Articles 6.4 and 12.

> For information on in-kind contributions provided by third parties *free of charge, see Articles 6.4 and 12.*

1.3.2 Costs for persons seconded by a third party may be **declared** ONLY as **actual costs**.

1.3.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for costs to be eligible (i.e. incurred/used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a) and (b)*)
- the person must be **seconded**

  'Seconded' means the temporary transfer of personnel from a third party to the beneficiary. The seconded person is still paid and employed by the third party, but works for the beneficiary. S/he is at the disposal of the beneficiary.

  Example: *A researcher in a public research centre is seconded to work in a university that is a beneficiary in a GA.*

  Best practice: Secondments should be formalized via a secondment agreement. The secondment agreement has to detail the conditions of secondment *(tasks, payment (or not) from one entity to the other, duration of the secondment, location, etc.)*.

  A secondment normally requires the seconded person to work at the beneficiary's premises, although in specific cases it may be agreed otherwise in the secondment agreement.

- the beneficiary must **reimburse the costs** to the third party (i.e. not for free)
- fulfil the **additional** cost eligibility **conditions** set out in Article 11.1.

1.3.4 There is no specific **calculation** method; the costs must correspond to the price paid by the beneficiary — up to the costs actually incurred by the third party *(see Article 11.1*).

For the calculation of the upper limit (i.e. the third party's actual costs), the same calculation rules apply as in point 1.1.4.

⚠ **Record-keeping —** The beneficiary must keep records of the hours which the seconded person worked for the action *(e.g. time-sheets etc.; see Article 18.1.2)*.

1.4 Direct personnel costs: SMEs owners & natural persons not receiving a salary (A.4 & A.5)

1.4.1 What? These budget categories **cover** the costs of SME owners and beneficiaries that are natural persons which work on the action, but **don't receive a salary**.

This includes SME owners who are remunerated/compensated for their work for the SME by any other means than a salary *(for example, dividends, service contracts/other non-employment contracts between the company and the owner, etc.)*.

What not? SME owners who receive a salary (registered as such in the accounts of the SME) cannot declare personnel costs under this budget category, unless s/he can show that this salary corresponds exclusively to the management of the SME (and is therefore not linked to the action). (In this case, the salary for the management of the SME cannot be declared.)

1.4.2 These costs must be **declared as** the unit cost (hourly rate) fixed by Commission Decision C(2013) 8197[17] and set out in Annex 2 and 2a of the GA.

The precise unit cost is not pre-fixed by the Decision; the 'amount per unit' (hourly rate) must be calculated for each individual — before signature of the GA — according to the following formula:

Amount per unit = {{EUR 4,650/143 hours}
multiplied by
{country-specific correction coefficient of the country where the beneficiary is established}}

The country-specific correction coefficient is the one set out in the *Main Work Programme — MSCA*[18] in force at the time of the call.

Example: *A German SME owner not receiving a salary will calculate the hourly rate as follows:*
EUR 4.650/143 * 98.8% = *EUR 32,13/hour*

In practice, the declaration of costs for SME owners and beneficiaries that are natural persons is very simple and almost completely automatized: The beneficiaries must only indicate the number of hours worked on the action and the costs are then automatically calculated by the IT system.

1.4.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, correct calculation etc.; *see Article 6.1(b)*)
- be declared for an **SME owner/beneficiary that is natural person**, who works on the action but does not receive a salary.

  The owner may be compensated by means such as dividends, service contracts between the company and the owner, etc.

The Commission/Agency may verify that the beneficiary fulfils the conditions for using this unit cost.

[17] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf
[18] Available at http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html

1.4.4 The **cost** are **calculated** (automatically by the IT system) as follows:

amount per unit (hourly rate; *see Annex 2a GA*) **x** number of actual hours worked on the action

⚠ **Ceiling** — The **total number of hours** declared in EU and Euratom grants **for an SME owner for a year** (i.e. a financial year) can NOT be higher than 1 720.

1.5 Direct personnel costs: Access to research infrastructure personnel costs (A.6)

1.5.1 What? This budget category **covers** the personnel costs for access to infrastructure activities, i.e. normally:

- costs for employees (or equivalent)
  - basic remuneration and
  - for non-profit legal entities: additional remuneration
- costs for natural persons with direct contract and
- costs of seconded personnel (against payment).

1.5.2 Personnel costs for providing trans-national or virtual access to research infrastructure may be **declared as:**

- **actual costs** (most common case)

OR

- **unit costs** in accordance with the usual cost accounting practices (average personnel costs) *(see Article 5.2(a))*.

1.5.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for costs to be eligible (i.e. incurred/used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a) and (b)*)
- fulfil the specific conditions for costs for employees (or equivalent), costs for natural persons working under a direct contract or costs of personnel seconded by a third party against payment
- be incurred for providing **trans-national** or **virtual access** to research infrastructure
- fulfil the **additional** cost eligibility **conditions** set out in Article 16.1 or 16.2.

1.5.4 The same **calculation rules** apply as in points 1.1.4, 1.2.4 and 1.3.4.

B. Direct costs of subcontracting *[(not covered by Point F)]* (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if the conditions in Article 13.1.1 are met.

[OPTION to be used for trans-national access to research infrastructure: *Subcontracting costs for providing trans-national access to research infrastructure are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

[OPTION to be used for virtual access to research infrastructure: *Subcontracting costs for providing virtual access to research infrastructure are eligible only if also the conditions set out in Article 16.2 are met.****]***

1. Direct costs of subcontracting (B.): Types of costs — Form — Eligibility conditions — Calculation

This budget category applies to all RIA, IA and CSA grants under the General MGA.

The additional options for access to research infrastructure (together with the corresponding Article 16 and other provisions) will be inserted into the GA if the action also involves access to research infrastructure.

1.1 What? This budget category **covers** (and is limited to) the price paid for subcontracts and related taxes *(for VAT, see Article 6.5)*.

1.2 Direct costs of subcontracting must be **declared as** actual costs (i.e. on the basis of the prices actually paid) *(see Article 5.2(b))*.

1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- be incurred for the **subcontracting of action tasks** described in Annex 1 *(see Article 13)*
- fulfil the **additional** cost eligibility **conditions** set out in Article 13.1.1
- for subcontracting costs incurred for providing trans-national or virtual access to research infrastructure: fulfil the **additional** cost eligibility **conditions** set out in Article 16.1 or 16.2.

1.4 There is no specific **calculation** method; the costs must correspond to the eligible costs actually incurred.

Specific cases (subcontracting costs (B.)):

Staff provided by a temporary work agency — Costs for staff provided by a temporary work agency may exceptionally have to be declared under category B 'subcontracting' (instead of category D.3 'other goods and services') if the temporary work agency carries out directly some task of the action (provided they comply with the eligibility conditions).

C. Direct costs of providing financial support to third parties ***[(not covered by Point F)]***

[OPTION 1a to be used if Article 15.1 applies: *C.1* ***Direct costs of providing financial support*** *are eligible if the conditions set out in Article 15.1.1 are met.****]***

[OPTION 1b to be used if Article 15.2 applies: *C.2* ***Direct costs of providing financial support in the form of prizes*** *are eligible if the conditions set out in Article 15.2.1 are met.****]***

[OPTION 2*: Not applicable****]***

1. Direct costs of providing financial support to third parties (C.): Types of costs — Form — Eligibility conditions — Calculation

This optional budget category (together with the corresponding Article 15 and other provisions) will be inserted into the GA if the action also involves financial support to third parties.

1.1 What? This budget category **covers** the costs for the financial support given to third parties.

1.2 Direct costs of providing financial support to third parties must be **declared as** actual costs (i.e. on the basis of the financial support actually paid) *(see Article 5.2(c))*.

1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- fulfil the **additional** cost eligibility **conditions** set out in Article 15.1.1.

1.4 There is no specific **calculation** method; the costs must correspond to the eligible costs actually incurred.

D. Other direct costs *[(not covered by Point F)]*

D.1 **Travel costs and related subsistence allowances** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if they are in line with the beneficiary's usual practices on travel.

[OPTION to be used for trans-national access to research infrastructure: *Travel costs for providing trans-national access to research infrastructure are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

1. Travel costs and related subsistence allowances (D.1): Types of costs — Form — Eligibility conditions — Calculation

This budget category applies to all RIA, IA and CSA grants under the General MGA.

The additional option for access to trans-national research infrastructure (together with the corresponding Article 16 and other provisions) will be inserted into the GA if the action also involves access to research infrastructure.

1.1 What? This budget category **covers** the travel costs and related subsistence allowances (including all related duties, taxes and charges that the beneficiary has paid, if including them is part of the usual practices for travel, *e.g. non-deductible VAT; see Article 6.5*) spent for the action.

> **Best practice:** Beneficiaries may contact the Commission/Agency to ask whether a particularly expensive travel plan would be accepted or not.

Travel and subsistence costs may relate to the personnel of the beneficiaries as well as to external experts that participate in the action on an ad hoc basis *(e.g. attending specific meetings),* if the experts' participation is foreseen in Annex 1. In this case, the beneficiary may reimburse the experts or handle the travel arrangements itself (and be invoiced directly).

There is no distinction between travelling in- or outside of Europe.

1.2 Travel and subsistence costs must be **declared as** actual costs *(see Article 5.2(d))*.

1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)

  The travel for which costs are claimed must be necessary for the action *(e.g. to present a paper explaining the results of a conference)*. Travel costs related to an event at which the beneficiary carried out work that was not specifically related to the action are NOT eligible.

  All travel costs must be limited to the needs of the action; costs related to extensions (for other professional or private reasons) are NOT eligible.

  Moreover, they must be adequately recorded.

- be in line with the beneficiary's **usual practices on travel**

  > ***Example*:**
  > *Beneficiary A declares the cost of a business class airplane ticket for one of its employees.*
  > *If the beneficiary usually pays for staff in this category to travel in business class, then the cost of the business class ticket is eligible.*

If the beneficiary's usual practice is to only pay for economy class tickets for staff in this category, then the cost of the business class ticket is not eligible.

If the beneficiary reimburses travel and/or subsistence allowances as a lump sum/*per diem* payment, it is the lump sum/*per diem* amount that is considered an eligible cost, NOT the actual prices paid by the person receiving the lump sum or *per diem*. (For the purposes of the grant, these lump sum/per diem costs remain actual costs, NOT unit or lump sum costs under Article 5.2. They must be recorded in the beneficiary's accounts and will be checked if there is an audit.)

- for travel and subsistence costs incurred for providing **trans-national access to research infrastructure**: fulfil the **additional** cost eligibility **conditions** set out in Article 16.1.

1.4 There is no specific **calculation** method; the costs must correspond to the eligible costs actually incurred.

Specific cases (travel costs (D.1)):

Combination with personal travels or travels for other purposes — The costs of a combined travel can be charged to the action — but ONLY up to the cost that would have been incurred if the travel would have been made exclusively for the action AND if:

- it is the usual practice of the beneficiary to pay for such travels *(e.g. travels combining professional and personal reasons)*
- it has been an actual cost for the beneficiary.

***Example*:**

The researcher flies from Madrid, where the beneficiary is established, to Prague for a project meeting. After the meeting, instead of flying back to Madrid, the researcher flies directly to New York to participate in an event not related to the action.
The beneficiary may charge to the action:

- *the cost of the flight from Madrid to Prague, and*
- *the part of the flight back from New York to Madrid up to the cost that it would have incurred for a flight back from Prague to Madrid after the end of the project meeting.*

⚠ **Record-keeping —** The beneficiary must keep evidence not only of the actual cost of the flight back, but also of the cost of the flight that the person would have taken if it would have returned directly after the end of the work for the action.

D.2 ***[OPTION 1 by default**: 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 10.1.1 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 the beneficiary) 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 **costs of equipment, infrastructure or other assets contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.*

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.]

***[OPTION 2 (alternative to option above) to be used if foreseen in the work programme[18]:** The **cost of purchasing equipment**, **infrastructure** or **other assets** (new or second-hand) (as recorded in the beneficiary's accounts) are eligible if the equipment, infrastructure or other assets was purchased in accordance with Article 10.1.1.*

*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 the beneficiary) 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 costs of equipment, infrastructure or other assets **contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.]*

***[OPTION (in addition to one of the two first options above) for trans-national access to research infrastructure:** As an exception, the beneficiaries must not declare such costs (i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure and other assets) for providing trans-national access to research infrastructure (see Article 16.1).]*

***[OPTION (in addition to one of the two first options above) for virtual access to research infrastructure, unless the work programme explicitly allows capital investments for virtual access to research infrastructure:** As an exception, the beneficiaries must not declare such costs (i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure and other assets) for providing virtual access to research infrastructure (see Article 16.2).]*

[18] To be used as an exception, only if justified by the nature of the action and the context of the use of the equipment or assets, if provided for in the work programme.

1. Equipment costs (D.2): Types of costs — Form — Eligibility conditions — Calculation

This budget category applies to all RIA, IA and CSA grants under the General MGA.

An option for full purchase costs will be inserted into the GA, if explicitly provided in the work programme/call.

The beneficiaries may declare the following **types of** equipment **costs** as 'other direct costs – equipment costs':

one of the following:

- either **depreciation costs** of equipment, infrastructure or other assets
- or **full purchase costs** of equipment, infrastructure or other assets (if option applies)

AND:

- costs of **renting or leasing** of equipment, infrastructure or other assets
- costs of equipment, infrastructure or other assets **contributed in-kind against payment**.

1.1 Equipment costs (D.2): Depreciation costs of equipment, infrastructure or other assets

1.1.1 What? This budget category **covers** the depreciation costs of equipment, infrastructure or other assets used for the action.

In some cases *(e.g. infrastructure)*, equipment costs may also include the costs necessary to ensure that the asset is in good condition for its intended use *(e.g. site preparation, delivery and handling, installation, etc.)*.

What not? If the beneficiary's usual practice is to consider durable equipment costs (or some of them) as indirect costs, these can NOT be declared as direct costs, but are covered by the 25 % flat rate for indirect costs *(see Article 6.2.E)*. Any depreciation declared as a direct cost under a H2020 action must be a direct cost under the beneficiary's cost accounting practices *(see Article 6.2.)*

1.1.2 Equipment costs must be **declared as** actual costs *(see Article 5.2(d))*.

1.1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, recorded in the beneficiary's accounts, etc.; *see Article 6.1(a)*)
- have been **purchased** in **accordance with Article 10.1.1**
- be **written off** in accordance with the beneficiary's **usual accounting practices** and with **international accounting standards**.

  'International accounting standards' are an internationally recognised set of rules for maintaining books and reporting company accounts, designed to be compared and understood across countries.

  Example: *The IAS 16 (International Accounting Standards) or the International Financial Reporting Standards (IFRS), originally created by the EU and now in common international use.*

1.1.4 They must be **calculated** according to the following principles:

- the depreciable amount (purchase price) of the equipment must be allocated on a systematic basis over its useful life (i.e. the period during which the equipment is expected to be usable). If the equipment's useful life is more than a year, the beneficiary can NOT charge the total cost of the item in a single year (*see also 'cash-based accounting' below*)
- depreciated equipment costs can NOT exceed the equipment's purchase price
- depreciation can NOT be spread over a period longer than the equipment's useful life

- if the beneficiary does not use the equipment exclusively for the action, only the portion used on the action may be charged. The amount of use must be auditable

  Example: *A microscope was bought before the action started and was not fully depreciated. For 6 months in reporting period 1 it was used for the action for 50 % of the time and for other activities for the other 50 % of the time. Linear depreciation is applied according to the beneficiary's usual practices (depreciation over the expected period of use of the microscope): EUR 100 000 per year (EUR 50 000 for 6 months).*

  Costs declared for the project: EUR 50 000 (6 months of use) multiplied by 50 % of use for the action during those 6 months = EUR 25 000.

- the beneficiary can NOT charge depreciation for periods before the purchase of the equipment

  Example: *A microscope was bought on 1 December. The reporting period ends on 31 December and the financial year also ends on 31 December. The maximum depreciation that the beneficiary may charge is 1 month (from 1 to 31 December); i.e. 1/12 of the annual depreciation. This applies even if the beneficiary recorded in its accounts at 31 December a full year of depreciation for the item.*

The depreciation costs must be calculated for each reporting period.

Specific cases (equipment costs (D.2)):

Low-value assets — The full cost of a low value asset may be eligible in the year when it is purchased if:

- the full cost is recorded in the accounts of the entity as expenditure of that year (i.e. NOT recorded as an asset subject to depreciation)

and

- the cost of the asset is below the low-value ceiling as defined under national law (e.g. *national tax legislation)* or other objective reference compatible with the materiality principle

and

- the item is used exclusively for the action in the year of purchase.

  If the item is not used exclusively for the action in the year of purchase, only the portion used on the action may be charged.

Full price of an asset in one single year — As a general rule, beneficiaries cannot charge the total purchase price of equipment to the action, unless the GA explicitly foresees that option. The beneficiaries may therefore normally only charge the annual depreciation costs that correspond to the part of the equipment's use for the action. Declaring its *full* price in one single year would be considered either as not compliant with the international accounting standards or as an excessive cost — and therefore in both cases ineligible; *see 'cash-based accounting' below*).

Equipment bought before the action start — Depreciation costs for equipment used for the action, but bought before the action start are eligible if they fulfil the general eligibility conditions of Article 6.1(a). These remaining depreciation costs (the equipment has not been fully depreciated before the action's start) may be eligible only for the portion corresponding to the action duration and to the rate of actual use for the purposes of the action.

Example:

According to the beneficiary's accounting practices, a piece of equipment bought in January 2013 has a depreciation period of 48 months.
If the GA is signed in January 2015 (when 24 months of depreciation have already passed) and the equipment is used for this action, the beneficiary can declare the depreciation costs incurred for the remaining 24 months, in proportion to the equipment's use for the action.

Cash-based accounting — As a general rule, beneficiaries cannot charge the total purchase price of equipment to the action, unless the GA explicitly foresees that option. The beneficiaries may therefore normally only charge the annual depreciation costs that corresponds to the part of the equipment's use for the action. This depreciation must be calculated in accordance with *international accounting standards* (i.e. notably spread over the equipment's useful life).

'Useful life' means the time during which the equipment is useful for the beneficiary. If the beneficiary does not normally calculate depreciation it may refer to its national tax regulations to define the useful life of the equipment.

Therefore, if the equipment's useful life is more than a year, the beneficiary can NOT charge the full price in one single year (— even if the beneficiary's usual accounting practice is to record the equipment's *total* purchase cost as an expense in one year).

Example:

A beneficiary that uses cash-based accounting buys a machine for EUR 100 000 in March 2015. According to the logbook of the machine, it is used for the action 50 % of the time from 1 July 2015 until the end of the action. The action started in January 2015 and runs for three years with two reporting periods. The machine's useful life is six years.

In the reporting period ending in June 2016, the beneficiary must declare depreciation costs taking into account the percentage of use, the time used for the action and the machine's useful life:

EUR 100 000 x (12/72 months) x 50 % (used for the action) = amount declared for the machine in the first reporting period

In the reporting period ending in December 2017, the beneficiary must declare:

EUR 100 000 x (18/72 months) x 50 % (used for the action) = amount declared for the machine in the second reporting period

Prototype or pilot plant (constructed as part of the action tasks) — Normally beneficiaries may only declare the depreciation costs for equipment, infrastructure or other assets that are used for the project.

(Full) Construction costs (of a prototype or pilot plant) may however exceptionally be eligible as 'equipment costs', if all of the following apply:

- building the prototype or pilot plant is part of the action tasks (i.e. described in Annex 1 of the GA)
- the costs are foreseen in the estimated budget (Annex 2 of the GA)
- the eligibility conditions of Articles 6.1 and 6.2 are met (in particular, recorded in the beneficiary's accounts in accordance with the national accounting standards and with the beneficiary's usual cost accounting practices; *see Article 6.1(a)(v)*).

Example:

If according to national accounting standards the prototype must be depreciated, the beneficiary may only declare the depreciation costs (as recorded in its accounts), not the full construction cost.

If the full construction costs of the prototype are eligible according to the conditions above, but the construction was outsourced to a third party (other than a linked third party), the costs can NOT be declared in category D.2 'equipment', but may be eligible in category B 'subcontracting' *(see Articles 6.2.B and 13)*.

1.2 Equipment costs (D.2): Full cost of purchasing equipment, infrastructure or other assets

This budget category **covers** the *full* purchase costs of capitalised equipment, infrastructure or other assets used for the action (not only the depreciation costs for the relevant periodic report).

'Capitalised' means recorded as assets in the beneficiary's balance sheet.

1.3 Equipment costs (D.2): Costs of renting or leasing equipment

1.3.1 What? This budget category **covers** the costs of renting or leasing equipment used for the action (i.e. finance leasing, renting and operational leasing).

1.3.2 Equipment costs must be **declared as** actual costs *(see Article 5.2(d))*.

1.3.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- **not exceed** the depreciation **costs of similar equipment**, infrastructure or assets
- **not** include any **financing fees**.

1.3.4 They must be **calculated** according to the following principles:

- for leasing (finance leasing) with the option to buy the durable equipment:

  - the equipment leased by the beneficiary must be recorded as an asset of the beneficiary and the depreciation costs may be declared in accordance with the beneficiary's usual accounting practices
  - the costs declared can NOT exceed the costs that would have been incurred if the equipment had been purchased and depreciated under normal accounting practices

    The finance charges included in the finance lease payments are therefore NOT eligible.
  - the costs declared can NOT include any interest on loans taken to finance the purchase, or any other type of financing fee
- for renting and operational leasing: the equipment rented or leased by the beneficiary is not recorded as an asset of the beneficiary: There is no depreciation involved (since the item is still the property of the renting or leasing firm), but the rental or lease costs of the beneficiary (i.e. its periodic payments to the renting or leasing firm) are eligible, if they follow the beneficiary's usual practices and do not exceed the costs of purchasing the equipment (i.e. are not higher than the depreciation costs of similar equipment).

1.4 Equipment costs (D.2): Costs of equipment, infrastructure or other assets contributed in-kind against payment

1.4.1 What? This budget category **covers** the costs of equipment, infrastructure or other assets that were used for the action and 'contributed in-kind against payment'.

1.4.2 Equipment costs must be **declared as** actual costs *(see Article 5.2(d))*.

1.4.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- **not exceed** the depreciation **costs of similar equipment**, infrastructure or assets
- **not** include any **financing fees**
- fulfil the **additional** cost eligibility **conditions** set out in Article 11.1.

1.4.4 The costs must correspond to the amount paid by the beneficiary and must not exceed the depreciation cost of the third party.

D.3 **Costs of other goods and services** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible, if they are:

(a) purchased specifically for the action and in accordance with Article 10.1.1 or

(b) contributed in kind against payment and in accordance with Article 11.1.

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

[OPTION to be used for trans-national access to research infrastructure: *Costs of other goods and services* ***for providing trans-national access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

[OPTION to be used for virtual access to research infrastructure: *Costs of other goods and services* ***for providing virtual access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.2 are met.****]***

1. Costs of other goods and services (D.3): Types of costs — Form — Eligibility conditions — Calculation

The budget category applies to all RIA, IA and CSA grants under the General MGA.

The additional options for access to research infrastructure (together with the corresponding Article 16 and other provisions) will be inserted into the GA if the action also involves access to research infrastructure.

1.1 What? This budget category **covers** the costs for goods and services that were purchased for the action (or contributed in-kind against payment), including:

- costs for consumables and supplies *(e.g. raw materials etc.)*
- dissemination costs (including regarding open access to peer-reviewed scientific publications*, e.g. article processing or equivalent charges*, costs related to open access to research data and related costs, *such as data maintenance or storage and conference fees for presenting project-related research*)
- costs related to intellectual property rights (IPR) (including costs to protect the results or royalties paid for access rights needed to implement the action)
- costs for certificates on financial statements (CFS) and certificates on methodology (unless unnecessary, *for instance because the EU or Euratom contribution is below the threshold of Article 20.4 or the certificate was submitted not for the final report but before*).
- translation costs *(if translation is necessary for the action's implementation, is justified, etc.)*.

Best practice: If there is any doubt about whether a cost is eligible, the beneficiaries should contact the Commission/Agency.

What not? If it is the beneficiary's usual accounting practice to consider some of these costs (or all of them) as *indirect* costs, they cannot be declared as direct costs (since they will already be covered by the 25 % flat rate).

1.2 Costs of other goods and services must be **declared as** actual costs *(see Article 5.2(d))*.

1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)

AND

  - be either **purchased specifically** for the action and in **accordance with Article 10.1.1**

  OR

  - **contributed in kind against payment** and in **accordance with Article 11.1**

- for costs of other goods and services incurred for providing **trans-national or virtual access to research infrastructure**: fulfil the **additional** cost eligibility **conditions** set out in Article 16.1 or 16.2.

1.4. There is no specific **calculation** method. The costs must correspond to the eligible costs actually incurred (i.e. the amount paid by the beneficiary for the supply of the goods or services).

Specific cases (costs for other goods and services (D.3)):

IPR access rights — Royalties paid for IPR access rights (and by extension any lump sum payments) are normally eligible, if all the eligibility conditions are met *(e.g. necessary for the implementation of the action, incurred during the action, reasonable, etc.)*.

The following are however NOT eligible (or eligible only within certain limits):

- royalties for an exclusive licence: are eligible only if it can be shown that the exclusivity (and thus the higher royalties) is absolutely necessary for the implementation of the action
- royalties for licensing agreements which were already in force before the start of the action: only the part of the licence fee that can be linked to the action is eligible (since the licence presumably goes beyond the action implementation)
- royalties for access rights to background granted by other beneficiaries under Article 25.2: Since the default rule is that access rights are granted on a royalty-free basis and beneficiaries may deviate only if agreed before GA signature, royalties are eligible only if explicitly agreed by all beneficiaries before GA signature and all the other eligibility conditions are met *(e.g. necessary for the implementation of the action, reasonable, etc.)*

  Best practice: If beneficiaries intend to deviate from the default rule, it is recommended that this is explained in detail in their proposal.
- royalties for access rights to background granted by other beneficiaries under Article 25.3 (and by extension royalties paid to third parties for exploitation of the results): are NOT eligible.

Protection of results — Costs related to the protection of the actions results *(e.g. consulting fees, fees paid to the patent office for patent registration; see Article 27)* are eligible if the eligibility conditions are fulfilled. Costs related to protection of other intellectual property (*e.g. background patents*) are NOT eligible.

Plan for the exploitation and dissemination of results — Costs for drawing up the plan for the exploitation and dissemination of the results are normally NOT eligible since they will have been incurred before the start of the action, to prepare the proposal. Costs that occur when revising or implementing this plan may be eligible.

Open access — Costs related to open access to peer-reviewed scientific publications and research data are eligible, if the eligibility conditions are fulfilled. With explicit agreement by the Commission/Agency, it can also include fees levied for a membership scheme (if this is a requirement for publishing in open access or if membership is a pre-condition for significantly lower article processing charges).

Supplies in stock — Supplies and consumables which were already in the stock of the beneficiary may be eligible as a direct cost, if they are used for the action and fit the definition of direct costs under Article 6.2.

Self-produced consumables with an accounting value in the inventory of the beneficiary (i.e. not internally invoiced costs for goods and services) — Consumables that are manufactured (produced) by the beneficiary itself do not have a purchase price; the cost of production for the beneficiary is however are normally recorded in the accounts of the beneficiary (as part of the *inventory)*. Therefore, the eligible costs of self-produced consumables must be determined on the basis of its accounting value under the following conditions:

- only the *direct* costs within the accounting value of the consumable (cost of production) may be charged. If it is not possible to accurately determine the part of the accounting value corresponding to the direct costs then the beneficiary may charge the accounting value divided by 1,25 (in order to remove the H2020 flat-rate for indirect costs)

> ⚠ Beneficiaries can **NOT** charge the **commercial price** for self-produced consumables.

AND

- the amount resulting from the indent above may not be significantly higher than the market price of the consumable.

Example:

In an action in the field of agro-forestry research the beneficiary needs 100 plants to carry out tests. The beneficiary has a greenhouse where it keeps a stock of those plants. The market price of those plants (e.g. checked with offers or prices published in internet) is around EUR 10 per plant. The beneficiary has 150 plants in stock with a global accounting value of EUR 1 200 (= EUR 8 per plant). It is not possible to identify what part of that accounting value corresponds to direct costs of production of those plants.
The beneficiary may use the self-produced plants for the action and charge EUR 6,4 per plant (8/1,25).

Staff provided by a temporary work agency — Costs for staff provided by a temporary work agency are eligible normally under category D.3 'other goods and services' if they comply with the eligibility conditions (and unless the temporary work agency carries out directly some task of the action, in which case it can be considered as subcontracting and should be declared under category B 'subcontracting').

D.4 **Capitalised and operating costs of 'large research infrastructure'**[19] ***[OPTION 1 by default:*** *directly used for the action are eligible, if:*

(a) the value of the ***large research infrastructure*** *represents at least 75% of the total fixed assets (at historical value in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure*[20]*);*

*(b) the beneficiary's methodology for declaring the costs for large research infrastructure has been positively assessed by the Commission ('****ex-ante assessment****');*

(c) the beneficiary declares as direct eligible costs only the portion which corresponds to the duration of the action and the rate of actual use for the purposes of the action, and

(d) they comply with the ***conditions*** *as further detailed in the annotations to the H2020 grant agreements.]*

OPTION 2 for all topics within calls under Part 'Research Infrastructure' (except for e-Infrastructure topics): *Not applicable.]*

[OPTION 3 to be used if foreseen in the work programme: *Not applicable.]*

[19] '**Large research infrastructure**' means research infrastructure of a total value of at least EUR 20 million, for a beneficiary, calculated as the sum of historical asset values of each individual research infrastructure of that beneficiary, as they appear in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure.

[20] For the definition see Article 2(6) of the 'H2020 Framework Programme Regulation No 1291/2013': **'Research infrastructure'** are facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, e.g. for education or public services. They include: major scientific equipment (or sets of instruments); knowledge-based resources such as collections, archives or scientific data; e-infrastructures such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieve excellence in research and innovation. Such infrastructures may be 'single-sited', 'virtual' or 'distributed'.

1. Capitalised and operating costs of large research infrastructure (D.4): Types of costs — Form — Eligibility conditions — Calculation

This optional budget category will be inserted into RIA, IA and CSA GAs, unless:

- it is excluded by the work programme or
- for calls under Part I of Horizon 2020 'Research Infrastructures' (except for e-Infrastructure topics).

1.1. What? It covers **capitalised costs** and **operating costs** of research infrastructure used for the action.

'Capitalised costs' are:

- all costs incurred in setting up and/or renewing the research infrastructure and
- some costs of specific repair and maintenance of the research infrastructure and parts or essential integral components.[19]

These costs are recorded as an asset in the balance sheet and expensed over the years. They can be claimed as direct costs through depreciation costs. The capitalised costs of the research infrastructure must be depreciated in line with international accounting standards (in

[19] *See also International Financial Reporting Standard No 16.*

particular, based on the useful economic life of the infrastructure) and with the beneficiary's usual accounting practices.[20] Only the depreciation costs of the research infrastructure corresponding to actual use may be declared as eligible direct costs.

Methods and national reporting practices may differ, but, for the declaration of costs under H2020 grants, it is these guidelines that must be followed for the financial reporting.

Beneficiaries must use their 'usual accounting principles', i.e. the general and cost accounting principles, standards and procedures that they use to compile their legal/statutory financial accounts (i.e. balance sheet, profit and loss accounts, etc.) together with their analytical management information. These standards and principles must not be set up specifically for declaring costs under EU-funded actions. They should be changed/adapted only where strictly necessary to comply with the EU cost eligibility conditions. Ad hoc accounting and/or management schemes will not be accepted.

The costs of renting and/or leasing (excluding any finance fee/interest) of a research infrastructure may also be declared as eligible direct costs. As regards depreciation, only leasing costs of the research infrastructure corresponding to actual use may be declared as eligible direct costs.

⚠ If a (tenant) beneficiary uses the values of contracts of renting or leasing of a research infrastructure to calculate the EUR 20 million threshold *(see below)* and therefore declares costs for this infrastructure, these costs cannot be considered nor declared by any other beneficiary under any other H2020 grant (in particular not by the owner of the research infrastructure).

'Operating costs' are costs:

- which the beneficiary incurs specifically (i.e. directly for the research infrastructure that is used for the action) for running the research infrastructure (including scientific, technical and administrative personnel) and
- are directly linked to the research infrastructure.

In the statutory accounting, these are recorded in the beneficiary's statement of comprehensive income (profit and loss account).

Only the following operating costs can be claimed as direct costs:

- personnel cost of administrative and support staff directly assigned to the functioning of the research infrastructure;
- rental/lease of the research infrastructure (for the period of its actual use for the action);
- maintenance and repair contracts (including calibrating and testing) specifically awarded for the functioning of the research infrastructure;
- consumables, materials and spare parts specifically used for the research infrastructure;
- facility management contracts including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety or security standards (if not capitalised), specifically awarded for the functioning of the research infrastructure;
- energy and water specifically supplied for the research infrastructure.

What not? The following costs can NOT be declared as direct costs (non-exhaustive list):

[20] *See Article 126 of the Financial Regulation No 966/2012.*

- rental, lease or depreciation of buildings or plants not directly used for the action (e.g. administrative buildings, headquarters)
- statutory audit and legal fees (not including costs of certificates required under the GA)
- office supplies and petty office equipment (purchased in bulk)
- other general services (cleaning, medical, library, services for publication, communication and connection, postage, dues and subscriptions, clothing, literature, transport, catering and similar items (i.e. items recorded by the beneficiary under the same account in the general ledger)
- management tasks and horizontal services (accounting and controlling, head office, corporate communications, HR and training, internal audit, management, quality management, strategic development, etc.)
- non-specific, non-activity-related or non-project-related costs (general): consumables, maintenance, general facilities management, conferences, hosted activities, security fees, insurance costs, general utilities, energy and water, and similar (i.e. items recorded by the beneficiary under the same account in the general ledger).

These costs are reimbursed through the flat-rate for indirect costs *(see Article 6.2.E)*.

1.2 Costs of capitalised and operating costs of large research infrastructure must be **declared as** actual costs *(see Article 5.2(d))*.

1.3 The costs must comply with the following **eligibility conditions**:

- they fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- the **sum of historical asset values of each individual research infrastructure** of the beneficiary, as they appear in its last closed balance sheet before the date of the signature of the GA or as determined on the basis of the rental and leasing costs of the research infrastructure, represents a total value of at least EUR 20 million for that beneficiary
- the **value of large research infrastructures** of the beneficiary represents at least 75% of the total fixed assets (at historical value in its last closed balance sheet before the date of the signature of the GA or as determined on the basis of the rental and leasing costs of the research infrastructure)
- the beneficiary's methodology for declaring the costs for large research infrastructure has been positively assessed by the Commission ('**ex-ante assessment**');
- the beneficiary declares as direct eligible costs only the **portion** which corresponds to the **action duration** and to the rate of **actual use** for the purposes of the action, and
- they comply with the **conditions** set out below.

⚠ The beneficiary must operate research infrastructure that falls under the definition of large research infrastructure (i.e. a total value of at least EUR 20 million and representing at least 75% of the total fixed assets). If this is the case, the **value of the specific research infrastructure used for the action** (and for which costs are declared) is **irrelevant** (i.e. it can be lower or higher than EUR 20 million) *(see also below point 2)*.

1.4 The **calculation** is explained in point 4.4.

2. Large research infrastructure (LRI)

Beneficiaries can declare capitalised and operating costs for **large research infrastructure**, if they comply with the definition and conditions listed in Article 6.2.D.4 (in particular if the large research infrastructure has a total value of at least EUR 20 million[21] and if the value of the large research infrastructure represents at least 75% of the beneficiary's total fixed assets, at historical value).

The values of contracts of renting or leasing of research infrastructure may be taken into account for the calculation of the EUR 20 million threshold of the (tenant) beneficiary *(see above)*.

The infrastructure used for the action must be a **research infrastructure** in technical terms, i.e. a facility, resource or service that is used by the research communities to conduct research and foster innovation in their fields; it may be used beyond research, e.g. for education or public services[22].

This covers for instance:

- major scientific equipment (or sets of instruments);
- knowledge-based resources such as collections, archives or scientific data;
- e-infrastructures, such as data, and computing systems, and communication networks.

The infrastructure may be 'single-sited', 'virtual' or 'distributed'.

Moreover, it must be a research infrastructure in accounting terms, i.e. recorded in the accounts of the beneficiary on the basis of a **grouping of costs** (comprising a wide range of items: buildings, machinery, equipment, IT, staff, repair and maintenance, specific security fees, etc.), specifically dedicated to the research infrastructure and necessary for it/them to function, and excluding costs that are incidental to the research infrastructure or necessary for accessing it, such as a car parks, conference and teaching rooms.

In analytical (cost) accounting, this grouping of costs can be recorded in many different ways.

Best practice: Recording them with a specific code for the research infrastructure or under a cost centre.

3. Ex-ante assessment

Only beneficiaries that have obtained a positive ex-ante assessment of their costing methodology may declare capitalised and operating costs for large research infrastructure under this budget category.

⚠ **Recalculations & adjustments of financial statements (exceptional) —** Costs can be declared under this budget category ONLY after having obtained the positive ex-ante assessment from the Commission. Once obtained, the beneficiaries may, however, exceptionally adjust previous financial statements.

⚠ Costs declared in accordance with a positive ex-ante assessment will not be challenged during audits, except in case of irregularity or fraud. The auditors will only:

- ensure that the methodology used is the one that was submitted for ex-ante assessment and
- verify that the calculations (applying the methodology) are correct.

[21] Calculated as the sum of the historical asset values of the individual research infrastructures as they appear in the beneficiary's last closed balance sheet before the date on which the grant agreement is signed, or determined on the basis of the rental and leasing costs of the infrastructures.

[22] *See Article 2(6) of the Horizon 2020 Framework Programme.*

When? Applications for ex-ante assessment can be submitted at any time during grant preparation for any grant agreement (by ticking the LRI box either in the Beneficiary Register or during grant preparation).

How? The **ex-ante assessment** is composed of two steps: Status validation and methodology compliance.

Procedure for ex-ante assessment:

Step 1 — **Status validation** (i.e. if the beneficiary qualifies with definition and conditions for declaring costs under Article 6.2.D.4).

The beneficiary must self-declare whether it complies with the conditions set out above (in particular the EUR 20 million and the 75% thresholds), by filling the appropriate field in the Beneficiary Register. The beneficiary must then provide the relevant supporting documents to the Commission within one month.

The Commission will confirm or — after a contradictory procedure — refuse the status and inform the beneficiary accordingly.

Step 2 — **Methodology compliance** (i.e. if the beneficiary's methodology complies with the conditions set out below).

Following an in-depth (in principle on-the-spot) assessment, the Commission will issue a draft report and submit it to a contradictory procedure with the beneficiary. During this phase the beneficiary has the possibility to amend its methodology by removing any non-compliant component of it. Thereafter, a final (negative or positive) ex-ante assessment report will be issued.

4. Other conditions

4.1 Costs must be identifiable and verifiable

All declared costs must be **identifiable and verifiable**, i.e. supported by persuasive evidence allowing for a sufficient audit trail.

The sufficiency and the persuasiveness of the evidence provided, as well as the audit trail, will be assessed against the International Standards on Auditing.

Capitalised costs claimed as depreciation costs must be supported by:

- proper registration in the assets' register
- evidence of actual use for the action, *e.g. through time registration*
- adequate calculation of potential use (total productive time)
- adequate calculation of the useful economic life of the asset
- evidence that depreciation is calculated in line with the beneficiary's usual accounting principles and the applicable accounting standards.

4.2 Costs must be incurred in direct relationship with the research infrastructure *and* with the action

Beneficiaries cannot declare their full organisational or general operating costs, even if they are fully research-oriented *(e.g. a research organisation, technical university, research enterprise)*. These costs are covered by the flat-rate for indirect costs *(see Article 6.2.E)*.

Only costs that have been incurred in **direct relationship** with the research infrastructure and that are necessary for the implementation of the action can be claimed as direct costs in category D.4 'large research infrastructure'.

This applies if:

- for capitalised costs: the implementation of the action specifically requires the use of the research infrastructure
- for operating costs: the functioning of the research infrastructure specifically requires the assignment of administrative and support staff, or the award of service or supply contracts.

Beneficiaries must be able to demonstrate eligibility by means of an audit trail and sufficient evidence, such as:

- their usual management practices and procedures

  Only written and consigned practices and procedures which are part of the beneficiary's internal control framework will be accepted. Oral statements will not be accepted.

- internal management exchanges necessary for the approval of an underlying transaction
- purchase orders, delivery notes, invoices, proof of payment or any other evidence of exchanges between the client and the provider(s) prior to signature of the contract or agreement

  The beneficiary must prove the reality of the underlying transaction (including the absence of a credit note or back-payment offsetting the transaction). Gathering such evidence may require a comprehensive analysis of the beneficiary's general ledger.

- for works contracts, any statement of work in progress, delivery status or assembling overview.

The evidence mentioned in the last three points must be explicitly linked to the specific research infrastructure and/or action, and to the specific cost item.

Beneficiaries may prove the direct link through alternative persuasive evidence. The sufficiency and the persuasiveness of the alternative evidence provided, as well as the audit trail, will be assessed against the International Standards on Auditing.

Example 1 (link between research infrastructure and action(s)):

A beneficiary involved in different research areas owns several research infrastructures: an oceanographic vessel and a laboratory for microbiological analysis.

Costs relating to the oceanographic vessel cannot be claimed as direct costs for an action for which it is not used (e.g. an action on eradicating malaria in Africa or on setting up a network for social intelligence).

*Part of the **costs of the vessel** can however be claimed where the vessel is used for an action (e.g. an action on seismic oceanography or on the oceanic ecosystem), provided the beneficiary demonstrates the extent of use (e.g. through a board-book).*

*Similarly, part of the **laboratory costs** can be claimed for an action on eradicating malaria in Africa or on the oceanic ecosystem, provided the beneficiary demonstrates the extent to which the laboratory is used for **the** action.*

*The costs of the two research infrastructures cannot be declared for the action on setting up the network for **social** intelligence.*

4.3 Costs must not be included as direct costs in any other category

Costs may not be declared twice *(see Article 6.5)*[23].

Thus:

- any (part of a) cost item that has been capitalised and recorded as an asset is *de facto* included in the depreciation costs of the infrastructure and cannot be declared in another cost category (e.g. if the capitalised costs of installing a large telescope are depreciated, they cannot be declared as operating costs)

- (part of) the costs of an infrastructure that have already been declared in respect of another EU or Euratom grant (including grants awarded by a Member State, or by bodies other than the Commission for the purpose of implementing the EU or Euratom budget) cannot be declared again *(e.g. costs already declared in an FP7 action to set up or renew an infrastructure; costs already declared in an action under* the 'Research Infrastructures' Part of Horizon 2020 with *(i.e. providing of trans-national access to research infrastructure; see Article 16); costs already declared in a grant co-financed by the Structural Funds or the ESIF Funds)*

  This means that a *cost item already declared* under a Structural Funds or ESIF grant cannot be declared again under the H2020 grant. However, *cost items that have not already been declared* under a Structural Funds or ESIF grant, may be declared under the H2020 grant, even if they belong to the same action.

> ⚠ **Combining H2020 & other EU grants —** The terminologies under the different EU funds/funding programmes may differ *(e.g. 'capitalised costs' under Horizon 2020 versus 'investment costs' under the Structural Funds, etc.).*

4.4 Costs must be directly measured

Costs can be claimed as direct costs in category D.4 'Large research infrastructure' only if they are **directly measured** (i.e. directly quantified by a monetary value assigned to a given cost item, or a share of it). The measurement system used by the beneficiary must accurately quantify the cost (i.e. reflect its actual true value), be supported by sufficient persuasive evidence and be auditable.

This is considered to be the case if the unit of measurement (generally obtained from the supplier's invoice) is that used to measure the direct consumption of the item.

This measurement must be accurate (i.e. show the *real* consumption and/or use of a cost item on the action), therefore only actual elements of cost and consumption or use are accepted.

Direct measurement of costs does NOT mean 'fair apportionment' through proxies or cost drivers — which was standard for declaring real indirect costs under FP7. (Fair apportionment is not a measurement but an attempt to estimate the costs that were incurred for an action. Direct measurement implies that a cost cannot be attributed to projects via an allocation key, a cost driver or a proxy.)

Example 2 (comparison between fair apportionment and direct measurement):

Under the fair apportionment method, the general electricity costs of a beneficiary operating a laboratory used for an action are allocated to the pool of indirect cost and then apportioned fairly via an absorption method (e.g. m^2).

Under the direct measurement method, the cost is claimed as direct cost; however the beneficiary must ensure that the electricity invoice specifies the electricity costs for the research infrastructure (explicitly labelled invoice or separate invoice). Moreover, the cost must then be measured with respect to the actual time of use of the research infrastructure for the action.

[23] *See Article 129(1) of the Financial Regulation No 966/2012.*

While accurate measurement systems may differ depending on the nature of the cost, they will normally involve time actually used for the action (**project time**) and therefore require reliable time recording (through time-sheets, logbooks, counters, etc.). The measurement system must be justifiable through sufficient persuasive evidence and auditable.

Project time must correspond:

- for the costs of administrative and support staff directly assigned to the functioning of the research infrastructure: to the number of hours actually worked for the action, measured and documented in accordance with Article 31 of the Rules for Participation Regulation No *1290/2013*

- for the other costs of the research infrastructure: to the number of hours/days/months of actual use of the research infrastructure for the action as a part of full capacity (i.e. the number of productive hours/days/months corresponding to the full potential use of the infrastructure)

  This includes any time during which the research infrastructure is usable but not used, but take due account of real constraints such as the opening hours of the entity, repair and maintenance time (including calibrating and testing) due to research activities.

  If a cost can be directly measured to the research infrastructure but — because of technical constraints — cannot be measured directly to the action, beneficiaries may measure costs by means of '**units of actual usage**' for the action, supported by accurate technical specifications and actual data and determined on the basis of the beneficiary's analytical cost accounting system. This data must be regularly updated.

  Example 3 (costs of administrative and support staff directly assigned to the functioning of the research infrastructure):

  If an employee of the administration and finance department is employed to carry out specific tasks necessary for the operation of a research infrastructure specifically used for an action (e.g. assigning time-slots between users, monitoring actual use, managing security contracts), the personnel costs can be declared as direct costs of the action, in proportion to the time the employee actually spent on the action and provided that this is recorded reliably.

Example 4 (part-time use of the research infrastructure for the action):

An oceanographic vessel is used full-time for a period of two months for an EU- funded action and three months for a non-EU research project (or for a non-research activity (commercial, industrial, etc.) of the beneficiary) and stays idle for seven months.

If the annual costs of the vessel (i.e. capitalised and operating costs) amount to EUR 120 000, the part that can be declared for the EU funded action is:

(EUR 120 000 / 12 months) x 2 months = EUR 20 000

AND NOT:

(EUR 120 000 / 5 months[24]) x 2 months = EUR 48 000

Renting or leasing costs can be directly measured to an action as follows:

Example 5 (rental/leasing costs):

The surface area of the premises rented/leased by a beneficiary is occupied as follows:

** 50 % by a research infrastructure;*
** 50 % by conference rooms and offices.*

The overall rental/leasing costs are EUR 100 000 per year, split (according to the rental/leasing agreement) as follows:

** EUR 80 000 for the research infrastructure;*
** EUR 20 000 for the conference rooms and offices.*

The rental costs that can be claimed as direct costs for an action using this research infrastructure are determined as follows:

Step 1 Calculation of the rental costs that can be directly attributed to the research infrastructure

On the basis of the rental/leasing agreement, the invoice must refer to separate amounts for the research infrastructure and the conference rooms/offices (the rental/leasing costs cannot be directly allocated on the basis of the respective surface areas).

The basis for the calculation must be EUR 80 000 and not EUR 50 000 (EUR 100 000 x 50 % of m²).

[24] 5 months = 2 months for an EU funded action + 3 months for non-EU research or other activities.

Step 2 *The rental/leasing amount invoiced for the research infrastructure (i.e. EUR 80 000) is precisely distributed between the activity(ies) and project(s) that make use of it (**best practice:** time of actual use). Installed usage capacity is taken (so as not to exclude idle time) and the resulting cost per unit of usage is multiplied by actual usage on the action (which thus absorbs its share of the overall renting/leasing cost).*

Best practices (for direct measurement):

- Depreciation (for capitalised costs): accounting statements accompanied by the beneficiary's depreciation policy (under its usual accounting principles), to show adequate calculation of the potential use of the asset (total productive time based on full capacity) + calculation of the useful economic life of the asset, evidence of project time (or units of actual usage for the action) and evidence of the actual use of the asset for the action
- Rental or lease of the research infrastructure: specific explicitly labelled rental or lease invoice/contract; adequate calculation of the potential use of the asset (total productive time based on full capacity) + calculation of the useful economic life of the asset, evidence of project time (or units of actual usage for the action) and evidence of the actual use of the asset for the action
- Personnel (administrative and support staff): time recording (without prejudice to the need for persuasive evidence of actual involvement in the action)
- Maintenance and repair (including calibrating and testing): specific explicitly labelled invoice relating to the research infrastructure + project time (or units of actual usage for the action)
- Consumables, materials and spare parts: specific explicitly labelled invoice relating to the research infrastructure, if available, or stocktaking; actual consumption for the action (based on analytical cost accounting) or project time (or units of actual usage for the action)
- Facilities management, including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety or security standards: specific explicitly labelled invoice relating to the research infrastructure + project time (or units of actual usage for the action)
- Energy and water: specific explicitly labelled invoice relating to the research infrastructure + project time (or units of actual usage for the action).

  The energy consumption of a specific research infrastructure can be obtained from the measured consumption *(e.g. number of kilowatts per hour of use)*, as stated in its technical specifications or provided by the supplier or an independent body. These specifications must be identifiable and verifiable.

Alternative to best practices: The beneficiaries may determine eligible direct costs on the basis of an aggregate of the capitalised and operating direct costs of each research infrastructure.

Direct measurement allows to determine a '**cost per unit of use**' covering all the actual direct costs relating to the operation of the research infrastructure being used for the action, i.e. depreciation costs plus necessary operating costs of the research infrastructure.

This cost remains however an actual cost, NOT a unit cost under Article 5.2.

The cost per unit of use must be **calculated** as follows:

$$\frac{\{\text{all capitalised costs of the research infrastructure + all operating costs of the research infrastructure}\}}{\text{total annual capacity}}$$

The unit of use must correspond to:

(i) the time of use expressed in hours, days or months and supported by evidence or

(ii) the number of accesses, for which supporting evidence may take the form of records or electronic log of units-of-access provision.

The calculation must take due account of real constraints *(e.g. opening hours)*, but must reflect the research infrastructure's full capacity and include any time during which the research infrastructure is usable but not used or any unit of access available but not used.

The **direct costs** that can be claimed are **calculated** as follows:

actual eligible costs per unit of use **x** actual number of units of use used on the action.

The calculation must be verifiable, i.e. allow for a sufficient audit trail reconciling it to the beneficiary's statutory accounts.

D.5 **Costs of internally invoiced goods and services** directly used for the action are eligible, if:

(a) they are declared on the basis of a unit cost calculated in accordance with the beneficiary's usual cost accounting practices;

(b) the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

(c) the unit cost is calculated using the actual costs for the good or service recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories.

The actual costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the costs, reasonable and correspond to objective and verifiable information;

(d) the unit cost excludes any costs of items which are not directly linked to the production of the invoiced goods or service.

'Internally invoiced goods and services' means goods or services which are provided by the beneficiary directly for the action and which the beneficiary values on the basis of its usual cost accounting practices.

1. Costs of internally invoiced goods and services (D.5): Types of costs — Form — Eligibility conditions — Calculation

The budget category applies to all RIA, IA and CSA grants under the General MGA.

1.1 What? This budget category covers the costs for goods and services which the beneficiary itself produced or provided for the action. They include (non-exhaustive list):

- self-produced consumables *(e.g. electronic wafers, chemicals)*
- use of specific research devices or research facilities *(e.g. clean room, wind tunnel, supercomputer facilities, electronic microscope)*
- specialised premises for hosting the research specimens used for the action *(e.g. animal house, greenhouse, aquarium)*
- standardised testing or research processes *(e.g. genomic test, mass spectrometry analysis)*
- hosting services for visiting researchers participating in the action *(e.g. housing, canteen*).

What not? Costs of goods of services purchased and costs of goods or services internally invoiced which are not directly used for the action *(e.g. supporting services like cleaning, general accountancy, administrative support, etc.)*.

1.2 Costs of internally invoiced goods and services must be **declared as** unit costs *(see Article 5.2(d))*.

1.3 The costs must comply with the following cumulative **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. used during the action duration, necessary for the action, etc.; *see Article 6.1(b)*)

- be in line with the beneficiary's **usual cost accounting practices**

  It must be the usual practice of the beneficiary to calculate a unit cost for that good or service (i.e. an internal cost per unit invoiced to other departments of the same entity – not prices charged in the context of commercial sales or grants from other fund providers).

- the cost accounting practices must have been applied in a **consistent** manner, based on objective criteria, regardless of the source of funding

  The beneficiary must consistently apply its usual cost accounting practices, based on objective criteria that must be verifiable if there is an audit. It must do this no matter who is funding the action.

  Example: *if the beneficiary sets up a new unit cost which applies only to EU actions, the internally invoiced costs based on that new unit cost would be ineligible.*

- the amount per unit must have been **calculated** using the actual costs recorded in the beneficiary's accounts, excluding any ineligible costs or costs already included in other budget categories

  If necessary, the unit cost must be adjusted to remove:

  - cost elements that are ineligible under the Grant Agreement (even if they are part of the beneficiary's usual methodology for determining the unit cost for its internal invoices)

    Example: *The beneficiary uses internal invoices for the use of an electronic microscope based on a unit cost per hour of use. The methodology to calculate the unit cost includes costs of capital (e.g. interest charged by the bank for a loan used to buy the microscope). Those costs are ineligible under the Grant Agreement (see Article 6.5) and must therefore be removed. The unit cost must be recalculated without them.*

    ⚠ A beneficiary cannot simply apply an estimated percentage of deduction on the amount of its internal invoices to remove ineligible costs. It has to ensure that the internal invoice does not include any ineligible costs under the GA.

  - costs of resources that do not belong to the beneficiary and which it uses free of charge *(e.g. personnel or equipment of a third party provided free of charge)*, because they are not in its accounts *(see Article 6.1(a)(v))*

  - costs that are already included in other budget categories (double funding of the same costs, *see Article 6.1(a)(i)*).

    Example: *The beneficiary uses internal invoices for water chemistry analyses, based on a unit cost per water sample analysed. The methodology to calculate the unit cost includes the cost of the staff carrying out the analysis. However, the costs for those persons are already charged to the action under direct personnel costs (category A.1). The cost of the staff must therefore be removed and the unit cost must be recalculated without them.*

- if budgeted or estimated elements were used to calculate the amount per unit, those elements must:

  - be relevant (i.e. clearly related to invoiced item)

  - be used in a reasonable way (i.e. do not play major role in calculating the unit cost)

  - correspond to objective and verifiable information (i.e. their basis is clearly defined and the beneficiary can show how they were calculated)

- the amount per unit must have been calculated using only costs of items which were **directly linked** to the production of the internally invoiced goods or services *(e.g. staff, equipment, raw materials, etc.)*

If a cost item is not used exclusively for the internally invoiced good or service, only the share used for the good or service may be counted (the percentage taken must be substantiated by persuasive evidence).

Example: ***Shared staff —*** *Among the persons operating the beneficiary's wind tunnel, there is one person that is assigned only part-time to that wind tunnel; the rest of the time it works in another department. If the beneficiary includes the costs of this person at the rate of 50 %, it must be able to justify the reality of that percentage, for example, by any of the following:*

- *reliable time recording system*
- *a statistic survey performed in the past based on actual data*
- *detailed calculations based on technical specifications or other scientific and technical requirements of the equipment or infrastructure allowing to reconcile the time spent by the person for the functioning of the wind tunnel*

or

- *a combination of these methods.*

Ceiling — The (share of the) working time of a person which is included in the calculation of the unit cost reduces the number of hours that the person can charge over the year to EU/Euratom grants (see Article 6.2.A. Calculation). The same hours of the person cannot be charged twice to the grant, once embedded in the unit cost and again as direct personnel costs.

If necessary, the unit cost must be adjusted to remove costs elements allocated to the unit cost indirectly; i.e. through cost drivers/allocation keys based on other cost items included in the unit cost *(e.g. for a clean room: the costs of the of the human resources department charged to the unit cost as a fixed amount per employee assigned to the clean room; or power supply costs allocated to the clean room on the basis of the square meters it occupies)*.

Example: *Costs for an animal housing facility*

*Examples of costs **generally eligible** as part of the unit cost*	*Examples of costs **ineligible** as part of the unit cost*
– *staff working for the facility (e.g. keepers, veterinarians and other persons directly assigned to run the animal house)* – *consumables used for the animal housing (e.g. animal food, bedding)* – *depreciation of cages and other equipment directly linked to the housing of the animals* – *generic supplies like electricity or water — BUT only if the consumption of the facility has been directly measured (so that the cost can be accurately determined)* – *maintenance and cleaning of the animal house facility — BUT only if the cost is directly identifiable (e.g. a separate invoice for the cleaning of the cages)*	– *cost of central services (e.g. accounting department, human resources department)* – *shared infrastructures (e.g. central heating, air-conditioning) and their maintenance* – *shared services with no differentiation of the costs incurred for the animal house facility (e.g. cleaning services)* – *depreciation of shared buildings (e.g. the animal housing is part of a main building of the beneficiary)* – *bank interests, provisions for future expenses and any other ineligible costs listed in Article 6.5*

Example: *Wind tunnel*

*Examples of costs **generally eligible** as part of the unit cost*	*Examples of costs **ineligible** as part of the unit cost*
– *staff working for the facility (e.g. technicians, engineers and other persons directly assigned to the functioning of the wind tunnel)* – *depreciation of the equipment, including specific software and hardware necessary*	– *cost of central services (e.g. accounting department, human resources department)* – *shared infrastructures (e.g. central heating, air-conditioning) and their maintenance* – *shared services with no differentiation of the costs incurred for the facility (e.g. cleaning*

for the functioning of the wind tunnel – *generic supplies like electricity — BUT only if the consumption of the facility has been directly measured (so the cost can be accurately determined)* – *insurance — BUT only if the cost is directly identifiable (e.g. a separate invoice for the insurance of the facility)* – *maintenance and cleaning of the wind tunnel equipment (e.g. air cooling system) — BUT only if the cost is directly identifiable (e.g. a separate invoice for the services)* – *calibration/metrology tests — BUT only if the cost is directly identifiable (e.g. a separate invoice for the services)*	*services)* – *depreciation of shared buildings (e.g. the building where the installation is located is part of a main building of the beneficiary)* – *bank interests, provisions for future expenses and any other ineligible costs listed in Article 6.5*

1.1.4 They must be **calculated** according to the rules set out above (point 1.1.3).

E. Indirect costs *[(not covered by Point F)]*

Indirect costs are eligible if they are declared on the basis of the flat-rate of 25% of the eligible direct costs (see Article 5.2 and Article 6.2. Points A to D above), from which are excluded:

(a) costs of subcontracting *[and][;]*

(b) costs of in-kind contributions provided by third parties which are not used on the beneficiary's premises *[and][;]*

(c) *[**OPTION 1 to be used if Article 15 applies:** costs of providing financial support to third parties[and][;]][**OPTION 2**: not applicable;]*

(d) *[**OPTION 1 if Article 6.2.F applies and the specific unit cost[/lump sum] cost covers indirect costs:** [unit costs under Articles 5.2(f) and 6.2.F.][lump sum costs under Articles 5.2(f) and 6.2.F.]] [**OPTION 2:** not applicable.]*

Beneficiaries receiving an operating grant[21] financed by the EU or Euratom budget cannot declare indirect costs for the period covered by the operating grant, unless they can demonstrate that the operating grant does not cover any costs of the action.

[21] For the definition, see Article 121(1)(b) of the 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 ('**Financial Regulation No 966/2012**')(OJ L 218, 26.10.2012, p.1): '**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.

1. Indirect costs (E.): Types of costs — Form — Eligibility conditions — Calculation

This budget category applies to all RIA, IA and CSA grants under the General MGA.

1.1 This budget category **covers** all costs for the action that are not *directly* linked to it *(see Article 6.2)*.

1.2 Indirect costs must be **declared as** a fixed flat-rate (*see Article 5.2(e)*; ⚠ new in Horizon 2020).

In practice, the declaration is completely automatized: The indirect costs are automatically calculated by the IT system (on the basis of the direct costs).

1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for flat-rate costs to be eligible (i.e. costs to which the flat-rate is applied must be eligible, correct calculation, etc.; *see Article 6.1(c)*)

1.4 They must be **calculated** by applying the 25 % flat-rate to the beneficiary's eligible direct costs, minus:

– subcontracting costs *(see Article 13)*

Example: *subcontracting of opinion surveys*

The purchase of goods, work or services that are not action tasks described in Annex 1 *(see Article 10)* is NOT considered subcontracting, and are therefore not subtracted when calculating the 25 % flat rate.

– costs of in-kind contributions incurred by third parties outside of the beneficiary's premises

- costs of providing financial support to third parties (if option applies)
- costs from specific cost categories (unit or lump-sum costs) that include indirect costs *(e.g. 'costs for energy efficiency measures in buildings', 'access costs for providing trans-national access to research infrastructure' and 'costs for clinical studies')*.

Example for calculating indirect costs:

A public university is a beneficiary under a GA and has incurred the following costs:

- *EUR 100 000 personnel costs (EUR 7 000 of which are an in-kind contribution in the form of a laboratory technician who carries out work for the action from his/her laboratory in a public research centre)*
- *EUR 20 000 subcontracting costs,*
- *EUR 10 000 other direct costs (consumables).*

Eligible direct costs: 100 000 + 20 000 + 10 000 = EUR 130 000

Eligible indirect costs: 25 % of (100 000 – 7 000 + 10 000) = EUR 25 750

Total eligible costs: EUR 155 750

⚠ **Combining H2020 & other EU grants —** Beneficiaries that also receive an EU **operating grant** can NOT declare any indirect costs for the reporting period(s) covered by the operating grant, unless they are able to demonstrate cost separation (i.e. that the operating grant does not cover any costs that may be claimed under the action).

Operating grants are annual grants to finance the operation and running costs of an entity *(e.g. call COMM-C2/01-2013 under the Europe for Citizens programme)*.

Example: *Entity A receives an operating grant under the Europe for Citizens programme for the financial year 2016 (i.e. from 01.01.2016 until 31.12.2016) The operating grant is not renewed in 2017. On 01.04.2016, entity A signs an H2020 action grant with one reporting period of 18 months (01.04.2016 – 31.12.2017). Beneficiary A may declare the indirect costs in the H2020 action grant as follows:*

- *from 01.04.2016 to 31.12.2016 ONLY IF it can demonstrate that the operating grant does not cover any costs of the action (see beow);*
- *from 01.01.2017 – 31.12.2017 under the normal H2020 rules (i.e 25% of the direct eligible costs since there is no operating grant covering the 2017 financial year).*

To **demonstrate cost separation**, the following conditions must be fulfilled:

- the operating grant may NOT cover 100% of the beneficiary's annual budget (i.e. it may not be a full operating grant)
- the beneficiary must use analytical accounting which allows for a cost accounting management with cost allocation keys and cost accounting codes AND must apply these keys and codes to identify and separate the costs (i.e. to allocate them to either the action grant or the operating grant)
- the beneficiary must record:
  - all costs incurred for the operating grant (i.e. personnel, general running costs and other operating costs linked to the WP) and
  - all costs incurred for the action grants (including the indirect costs linked to the action)
- the allocation of the costs must be done in a way that leads to a fair, objective and realistic result.

Beneficiaries that cannot fulfil these conditions must EITHER:

- terminate the operating grant, in order to sign the action grant with indirect costs
- keep the operating grant, but sign the action grant without indirect costs.

4.0 The possibility to combine operating grants with action grants if costs are separated was introduced with GA version 4.0. It applies also to older grant agreements, if the beneficiaries can demonstrate that there is no double funding, in accordance with the above-listed principles (analytical accounting tools, full cost recording, fair allocation).

Best practice: In case of an overlapping EU operating grant, the beneficiary should immediately contact the Commission/Agency (via the Participant Portal). Be aware that operating grants are not always easy to identify. They exist under various labels (operating grants; financial contributions/support to the functioning/operation of entities; etc.). Check your call text.

F. [OPTION 1: [Insert name of specific cost category(ies)[22]]][OPTION 2 if no specific cost categories applicable to the grant: Specific cost category(ies)]

[OPTION** 1a **for** **specific unit costs** **(if unit cost foreseen by Commission decision and applicable to the grant): [insert name of specific cost category**] are eligible if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual units [and if [insert eligibility conditions, if any]].**]

[OPTION 1b for specific lump sum costs (if lump sum foreseen by Commission decision and applicable to the grant): [Insert name of specific cost category]** are eligible, if they correspond to the lump sum set out in Annex 2 and the corresponding tasks or parts of the action have been properly implemented in accordance with Annex 1.**]

[same for each specific cost category]

[OPTION 2:** Not applicable**]

[22] Insert precise name of the cost category (as in the Commission decision authorising the use of the unit cost/lump sum). For example: 'access costs for providing trans-national access to research infrastructure', 'costs for clinical studies', 'costs for energy efficiency measures in buildings'.

1. Specific cost categories (F.): Types of costs — Form — Eligibility conditions — Calculation

This optional budget category will be inserted into RIA, IA and CSA GAs, if the action involves activities for which the beneficiaries may declare specific unit or lump sum costs, i.e. currently:

- actions under Part III of Horizon 2020, Societal Challenge 3 'Secure, clean and efficient energy' involving energy efficiency measures in buildings: **costs for energy efficiency measures in buildings**

  This unit cost applies ONLY to Smart Cities and Communities calls *(e.g. SCC-01-2014 for the Work Programme 2014-2015)* and ONLY to the building-related demonstration activities.

- actions under Part I, 'Research infrastructures': **access costs for providing trans-national access to research infrastructure**

  The unit cost applies ONLY to actions with 'provision of access activities'.

  Examples: *INFRAIA-1-2014-2015, INFRADEV-3-2015 and INFRADEV-4-2014-2015*

- actions under Part III, Societal Challenge 1 'Health, demographic change and wellbeing': **costs for clinical studies**

  The unit cost applies ONLY to actions with clinical studies.

⚠ **Double funding risk —** Costs that are declared as a specific unit or lump sum cost may NOT be declared (a second time) under another budget category *(for the costs that are covered, see below)*.

Example:

The unit cost for efficiency energy measures in buildings covers subcontracting costs related to the energy efficiency measures. These cannot be declared as subcontracting costs. By contrast, costs for subcontracts not included in the unit cost (e.g. subcontracts required by the implementation of the action but not related to the efficiency energy measures) can be declared.

1.1 Specific cost category – costs for energy efficiency measures in buildings (F.2)

1.1.1 This budget category **covers** three categories of direct and indirect costs:

- costs of purchasing equipment, infrastructures and other assets directly necessary for additional energy efficiency measures in buildings
- costs of subcontracting the works necessary for those measures
- indirect costs for those measures.

Examples: *the costs of building elements (such as new insulation, new ventilation system, window, door, heating elements, control system) and the man-days for installing the building elements will be covered.*

What not? Fluids.

1.1.2 Costs of additional energy efficiency measures must be **declared as** the unit cost set out in Commission *Decision C(2013) 8196*[25] and set out in Annexes 2 and 2a of the GA.

The precise unit cost ('amount per unit', i.e. EUR/m2 of eligible conditioned gross floor area) is not pre-fixed by the Decision; it must be calculated for each beneficiary/linked third party — before signature of the GA — using the following table:

Short name beneficiary/linked third party	BEST No	Amount per unit	Estimated No of units	Total unit cost (cost per unit x estimated no of units)

The formula for calculating the 'amount per unit' (EUR/m2 of eligible conditioned gross floor area) is:

Amount per unit = {EUR 0.1 **x** estimated total kWh saved per m² per year **x** 10}

Beneficiaries may however submit a proposal requesting funding for a number of kWh saved per m² per year *lower* than the estimated one. But this will not be evaluated as an advantage against other proposals.

The energy efficiency measures and the amount per unit must already be part of the proposal *(see the proposal templates and the BEST table provided on the call pages)* and be included in Annexes 1 and 2a.

[25] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_energy_en.pdf.

The use of the unit cost is mandatory. The beneficiaries/linked third parties cannot choose between unit and actual costs.

1.1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc.; *see Article 6.1(b)*)
- be incurred for energy efficiency measures in buildings that go beyond the national regulation or, if there is no national regulation applicable, beyond the market practice *(e.g. for refurbishment of buildings)*

1.1.4 They must be **calculated** as follows:

amount per unit *(see Annex 2a GA)* **x** number of actual m^2 of surface area built or refurbished ('conditioned')

The 'm2 of eligible conditioned gross floor area' may NOT include parts of the buildings which are not affected by the measures, *e.g. garages*.

Example for calculating unit costs for energy efficiency measures:

Assuming that the refurbishment of a building results in energy savings of 100 kWh/m²/year

Payback period (standard figure to be used in the calculation) = 10 years

Standard cost in euro to save 1 kWh (standard figure to be used in the calculation)= 0,1EUR/kWh

The formula gives:

*{standard cost in euro to save 1 kWh * estimated total kWh saved per m² per year * standard payback period in years} =*

*0.1EUR/kWh * 100kWh/m²/year * 10 years= 100 EUR/m²*

After application of the 70% funding rate for innovation actions (or for non-profit beneficiaries/linked third parties: 100%), it will give an indicative EU contribution of 70 EUR/m² (or 100 EUR/m² if the funding rate is 100%).

1.2 Specific cost category – access costs for providing trans-national access to research infrastructure (F.2)

1.2.1 This budget category **covers** direct and indirect access costs for providing trans-national access to research infrastructure (i.e. the installation's operating costs and costs related to logistical, technological and scientific support for users, including ad-hoc user training and the preparatory and closing activities needed to use the installation).

⚠ This specific budget category must be distinguished from the general budget category D.4 **'capitalised and operating costs of large research infrastructure'** *(see Article 6.2.D.4)*.

Beneficiaries that use budget category F.2 'access costs for providing trans-national access to research infrastructure' can NOT — under the same grant — declare costs under budget category D.4 'capitalised and operating costs of large research infrastructure'.

What not? Travel and subsistence costs for users to get access are not included in the access costs. (These costs can be reimbursed separately, in category D.1 'travel'; *see Article 6.2.D.1 and Article 16*.)

1.2.2 If they are declared under this budget category (i.e. F.2 'access costs for providing trans-national access to research infrastructure'), the costs must be **declared as** the unit cost calculated in accordance with Commission Decision C(2013) 8199[26] and set out in Annex 2 and 2a of the GA.

[26] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_tna-infra_en.pdf.

The precise unit cost (amount per unit, i.e. EUR/unit of access) is not pre-fixed by the Decision; it must be calculated for each access provider and installation, using the calculation table provided on the call page and then summarised in the following table:

Short name access provider	Short name infrastructure	Installation		Unit of access	Amount per unit	Estimated No of units	Total unit cost (cost per unit x estimated no of units)
		No	Short name				

The 'unit of access' to the installation must be identified (i.e. the unit used to measure the total quantity of access that the installation provides to its users)

The formula for calculating the 'amount per unit of access' (EUR/unit of access) is:

$$\text{Amount per unit} = \frac{\text{average annual total access cost (over past two years}^{27})}{\text{average annual total quantity of access (over past two years}^{28})}$$

The averages must be based on:

- the beneficiary's certified or auditable historical data
- costs allocated to the installation according to the beneficiary's usual cost accounting practices (including where the installation has been in operation for less than two years) and
- a period excluding times when the installation was not usable (out of order, under repair or undergoing long-term maintenance).

Access providers may however submit a proposal with a unit cost calculated on the basis of average costs lower than their historical costs.

The 'total quantity of access' means all the units of access annually provided by the installation, included access financed by the EU under previous grant agreements, if any.

The 'annual total access costs to the installation' is calculated on the basis of the following categories of eligible costs:

- the direct costs incurred by the access provider for the 'annual total quantity of access to the installation', as recorded in the certified or auditable profit-and-loss accounts of the reference period (years N-1 and N-2) for:
  - personnel costs of administrative, technical and scientific staff directly assigned to the functioning of the installation and to the support of the users
  - costs of contracts for maintenance and repair (including specific cleaning, calibrating and testing) specifically awarded for the functioning of the installation (if not capitalised)
  - costs of consumables specifically used for the installation and the user's research work
  - costs of contracts for installation management, including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety or security standards (if not capitalised) specifically incurred for the functioning of the installation
  - costs of energy power and water supplied for the installation
  - costs of general services when they are specifically included in the provided access services (library costs, shipping costs, transport costs)

[27] In exceptional and duly justified cases, the Commission may agree to a different reference period.
[28] In exceptional and duly justified cases, the Commission may agree to a different reference period.

- costs of software licence, internet connection or other electronic services for data management and computing when they are needed to provide access services
- costs of specific scientific services included in the access provided or needed for the provision of access

Costs calculated in accordance with the beneficiary's usual cost accounting practices are acceptable for personnel (average personnel costs) and internally invoiced goods and services — if this is the normal practice of the beneficiary.

- the indirect costs for providing access to the installation, equal to 25% of the eligible direct costs, minus any costs of subcontracting (i.e. costs of contracts for maintenance and repair, installation management, scientific services and other electronic services)

AND excluding:

- all contributions to the capital investments of the installation (including costs of renting or leasing or depreciation costs of buildings as well as depreciation and leasing of instrumentation). (Those costs are not eligible; *see also Article 6.2.D.2*)
- travel and subsistence costs for users.

Example (amount per unit):

Assuming that a telescope provided 6 100 hours of access in year N-1 and 5900 hours of access in year N-2 and that the total access costs (for the provision of these total quantities of access) in the two years calculated on the basis of the categories of costs indicated above (with the exclusion of any contribution to capital investment and of travel and subsistence costs of users) is respectively EUR 3 200 000 and EUR 2 800.000, then the unit cost is

Average costs = average (3 200 000, 2 800 000) = 3 000 000

Average hours = average (6100, 5900) = 6000

Unit cost = average (3 200 000, 2 800 000) / average (6100, 5900) = 3 000 000 /6000 = 500 €

The detailed calculation table s (one for each installation) must already be part of the proposal *(see proposal templates and the calculation table provided on the call pages)* and be included in Annex 1; the summary table must be included in Annex 2a.

The proposal and Annex 1 should describe both the access services provided and the logistical, technological and scientific support users need in order to make use of the installation (including ad-hoc training and preparatory and closing activities necessary to use the installation).

⚠ The Commission/Agency may verify that the proposed unit costs comply with the prescribed calculation method (and correct them, if needed).

As mentioned above, *before* GA signature, the beneficiaries can still opt for declaring the costs not as unit cost, but as actual costs under other budget categories *(see Article 6.2.A-E)*. (One cost form per installation).

The use of unit costs for trans-national access activities is optional, i.e. each beneficiary/linked third party can decide independently whether to be reimbursed on the basis of unit costs, actual costs or a combination of the two.

Afterwards (once the GA is signed), the choice can be changed only via an amendment *(see Article 55)*.

1.2.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for costs to be eligible (i.e. incurred/used during the action duration, necessary, linked to the action, correct calculation, etc.; *see Article 6.1(a) and (b)*)
- be incurred for providing trans-national access to research infrastructure to scientific communities
- fulfil the **additional** cost eligibility **conditions** set out in Article 16.1

1.2.4 They must be **calculated** as follows:

amount per unit *(see Annex 2a GA)* **x** number of actual units of access provided

1.3 Specific cost category – costs for clinical studies (F.2)

1.3.1 This budget category **covers** the following direct and indirect costs for 'clinical studies' (i.e. any clinical research involving a substantial amount of work related to the observation of, data collection from, or diagnostic or therapeutic intervention on multiple or individual patients):

- direct personnel costs of the doctors and other medical personnel and technical personnel (including data managers) that conducted the study
- direct costs of consumables used for the study
- direct costs of the medical equipment used for the study, including:
  - depreciation costs
  - costs of service contracts necessary for their functioning (including specific cleaning, maintenance and repair)
- costs of other specific service contracts necessary for the study (including data analysis, if subcontracted)
- indirect costs for the study.

What not? Travel and subsistence costs of study participants and horizontal tasks *(e.g. study monitoring, study coordination)* are not covered by the clinical studies unit cost. (These costs can be reimbursed separately, *e.g. in categories A. 'personnel', D.1 'travel' and D.3 'other goods and services'; see Articles 6.2.A, 6.2.D.1, 6.2.D.3*.)

1.3.2 If they are declared under this budget category (i.e. F.2 'costs for clinical studies'), the costs must be **declared as** the unit cost set out in Commission Decision C(2016) 7553[29] and set out in Annex 2 and 2a of the GA.

The precise unit cost (amount per unit, i.e. EUR/study participant) is not pre-fixed by the Decision; it must be calculated for each study/study sequence *(see below)* and beneficiary/linked third party/third party providing in-kind contributions — before signature of the GA — using the following table:

Task, Direct cost categories	Resource per patient	Costs year N-1 Beneficiary 1 [short name]	Costs year N-1 Linked third party 1a [short name]	Costs year N-1 Beneficiary 2 [short name]	Costs year N-1 Linked third party 2a [short name]	Costs year N-1 Third party giving in-kind contributions 1 [short name]
Sequence No. 1						
Task No. 1 Blood sample						

[29] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit%20costs_clinical_studies.pdf

(a) **Personnel costs:** - Doctors	n/a					
- Other Medical Personnel	Phlebotomy (nurse), 10 minutes	8,33 EUR	11,59 EUR	10,30 EUR	11,00 EUR	9,49 EUR
- Technical Personnel	Sample Processing (lab technician), 15 minutes	9,51 EUR	15,68 EUR	14,60 EUR	15,23 EUR	10,78 EUR
(b) **Costs of consumables**:	Syringe	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	Cannula	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	Blood container	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(c) **Costs of medical equipment**:	Use of -80° deep freezer, 60 days	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	Use of centrifuge, 15 minutes	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(d) **Costs of services**	Cleaning of XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(e) **Indirect costs** (25% flat-rate)		XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
Task No. 2						
…						
Amount per unit (unit cost sequence 1):		**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**
Sequence No. 2						
Task No. 1 XXX						
(a) **Personnel costs:** - Doctors	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
- Other Medical Personnel	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
- Technical Personnel	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(b) **Costs of consumables**:	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(c) **Costs of medical equipment**:	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(d) **Costs of services**	XXX	XX EUR	XX EUR	XX EUR	XX EUR	XX EUR
(e) **Indirect costs** (25% flat-rate)		XX EUR	XX EUR	XX EUR	XX EUR	XX EUR

Task No. 2						
…						
Amount per unit (unit cost sequence 2):		**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**
…						
Amount per unit (unit cost entire study):		**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**	**XX EUR**

⚠ Where the nature of the clinical study allows it, it can be split into sequences, *e.g. treatment cycles*. The number of sequences should be limited to the necessary minimum *(e.g. 3 sequences)*.

Separating the unit cost table into sequences will allow you to declare unit costs for study participants that dropped out during the study, but finalised the tasks of a sequence. Thus, the sequence unit cost can be charged for the participant, for the completed sequence(s).

Each beneficiary/linked third party/third party must calculate its unit cost on the basis of its historical data (estimated costs of the components per task and study participant). Historical cost reference data should be taken from the last closed financial year at the time of submission of the grant proposal (certified or auditable profit and loss account for 'year N-1').

Beneficiaries can choose whether to include *all* the cost components in their unit cost or only *some*, but they may NOT add any other cost categories.

They may choose whether to include personnel costs or not, but if they do, *all* the study-related personnel costs must be included (they cannot choose for individual persons/types of personnel). Moreover, this choice must be applied to all the tasks and sequences of the study. If personnel costs are included, they must moreover use one of the three available categories: doctors, other medical personnel or technical personnel (no other categories, *e.g. nurses must be included in 'other medical personnel').*

For consumables, medical equipment and services, there is more flexibility. They can choose for each individual cost items, if they would like to include it in their unit cost (or declare them as actual costs).

The choice (whether to include a cost component in the unit cost or not) is made by adding the costs into the table (or leaving it blank). All blank cost components are outside the unit cost (and can normally be declared as actual costs, if all the eligibility conditions are met).

The beneficiaries/linked third parties/third parties may therefore (for the same study/sequence) not only obtain completely different amounts per unit, but also include different components into their calculation.

Example:

Beneficiary No 1 decided to claim:

- *personnel costs as unit costs*
- *all consumables for sequence 1 as actual costs, all consumables in sequence 2 as unit cost and consumables in sequence 3 partially as actual, partially as unit costs*
- *medical equipment partially as actual, partially as unit cost (e.g. cost of a standard MRI scan — part of the study protocol sequence 2 task 3 — as unit costs and the costs for the use of an novel imaging tool — also sequence 2 task 3 — as actual costs, for instance because the historical data is not fully available)*
- *all services as unit costs.*

Beneficiary No 2 decided to claim all study costs as unit costs.

Linked third party 2a decided not to use the unit cost for any of the study costs (all costs as actual costs).

The formulas for calculating the individual cost components are:

For **personnel costs**:

For personnel costs of doctors: 'average hourly cost for doctors', i.e.:

{certified or auditable total personnel costs for doctors for year N-1
{1720 * number of full-time-equivalent for doctors for year N-1}
multiplied by
estimated number of hours to be worked by doctors for the task (per participant)**}**

For personnel costs of other medical personnel: 'average hourly cost for other medical personnel', i.e.:

{certified or auditable total personnel costs for other medical personnel for year N-1
{1720 * number of full-time-equivalent for other medical personnel for year N-1}
multiplied by
estimated number of hours to be worked by other medical personnel for the task (per participant)**}**

For personnel costs of technical personnel: 'average hourly cost for technical personnel', i.e.:

{certified or auditable total personnel costs for technical personnel for year N-1
{1720 * number of full-time-equivalent for technical personnel for year N-1}
multiplied by
estimated number of hours to be worked by technical personnel for the task (per participant)**}**

'total personnel costs' means actual salaries + actual social security contributions + actual taxes and other costs included in the remuneration, provided they arise from national law or the employment contract/equivalent appointing act

For **consumables**:

For each cost item: 'average price of the consumable', i.e.:

{{certified or auditable total costs of purchase of the consumable in year N-1
total number of items purchased in year N-1}
multiplied by
estimated number of items to be used for the task (per participant)**}**

'total costs of purchase of the consumable' means total value of the supply contracts (including related duties, taxes and charges such as non-deductible VAT) concluded by the beneficiary for the consumable delivered in year N-1, provided the contracts were awarded according to the principle of best value- for-money and without any conflict of interests

For **medical equipment**:

For each cost item: 'average cost of depreciation and directly related services per unit of use', i.e.:

{{ certified or auditable total depreciation costs in year N-1 + certified or auditable total costs of purchase of services in year N-1 for the category of equipment concerned}
total capacity in year N-1
multiplied by
estimated number of units of use of the equipment for the task (per participant)**}**

'total depreciation costs' means total depreciation allowances as recorded in the beneficiary's accounts of year N-1 for the category of equipment concerned, provided the equipment was purchased according to the principle of best value for money and without any conflict of interests + total costs of renting or leasing contracts (including related duties, taxes and charges such as non-deductible VAT) in year N-1 for the category of equipment concerned, provided they do not exceed the depreciation costs of similar equipment and do not include finance fees

For **services**:

For each cost item: 'average cost of the service per study participant', i.e.:

{certified or auditable total costs of purchase of the service in year N-1
total number of patients or subjects included in the clinical studies for which the service was delivered in year N-1**}**

'total costs of purchase of the service' means total value of the contracts concluded by the beneficiary (including related duties, taxes and charges such as non-deductible VAT) for the specific service delivered in year N-1 for the conduct of clinical studies, provided the

contracts were awarded according to the principle of best value for money and without any conflict of interests

For **indirect costs**:

{{{cost component 'personnel costs' + cost component 'consumables' + cost component 'medical equipment'}

minus

{costs of in-kind contributions provided by third parties which are not used on the beneficiary's premises + costs of providing financial support to third parties (if any)}**}**

multiplied by

25%**}**

The estimation of the resources to be used must be done on the basis of the study protocol and must be the same for all beneficiaries/linked third parties/third parties involved.

The year N-1 to be used is the last closed financial year at the time of submission of the grant application.

This table must already be part of the proposal *(see the proposal templates and the template for essential information to be provided for proposals including clinical studies provided on the call pages)* and be included in Annex 1 and 2a of the GA.

⚠ The Commission/Agency may verify that the proposed unit costs comply with the prescribed calculation method (and correct them, if needed).

As mentioned above, *before* GA signature, the beneficiaries can still opt for declaring the costs components not as unit cost, but as actual costs under other budget categories *(see Article 6.2.A-E)*.

The use of unit costs for clinical studies is optional, i.e. each beneficiary/linked third party can decide independently (and for the different cost components/cost items) whether to be reimbursed on the basis of unit costs or of costs actually incurred.

Once the GA is signed, the choice can be changed only via an amendment *(see Article 55)*.

⚠ Amendment requests to change the unit cost calculation will be accepted ONLY if there was a change in the study protocol *(e.g. due to requests from competent authorities, regulatory agencies or ethics committees)* or if there was an error in the calculation.

⚠ The maximum grant amount *(see Article 5.1)* will NOT be increased.

⚠ In case of an amendment, it is still the historical costs of the last closed financial year at the time of submission of the grant proposal that must be used to re-calculate the unit cost.

1.3.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc.; *see Article 6.1(b)*)
- be incurred for carrying out clinical studies**.**
- **1.3.4** They must be **calculated** as follows:
- amount per unit *(see Annex 2a GA)* **x** the number of study participants

6.3 Conditions for costs of linked third parties to be eligible

[OPTION 1 to be used if Article 14 applies: *Costs incurred by linked third parties 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 14.1.1.**]***

[OPTION 2: *Not applicable**]***

1. Costs of linked third parties (A-F)

This option (together with the corresponding Article 14 and other provisions) will be inserted into the GA if the action is implemented with linked third parties.

Linked third parties — Linked third parties are allowed to *fully* participate in the action, like the beneficiary they are linked to. They will therefore be treated for many issues (including cost eligibility) like beneficiaries.

The same rules apply, but with the changes needed to render them applicable to linked third parties.

Examples:

1. *'Incurred by the beneficiary' should be read as 'incurred by the linked third party'.*

2. *'On the beneficiary's payroll' should be read as 'on the linked third party's payroll'.*

The costs of linked third parties are **eligible**, if:

- they fulfil — *mutatis mutandis* — the **general conditions** and **specific conditions** for costs to be eligible *(see Article 6.1 and 6.2)* and
- they fulfil the **additional** cost eligibility **conditions** set out in Article 14.1.1.

Depending on the type of cost, they must be **declared** by the linked third party under the corresponding budget category (as the beneficiary would use for its own costs).

Examples:

1. *Remuneration of employees must be declared in category A.1 'personnel costs' (Article 6.2.A.1).*

2. *Depreciation costs of equipment must be declared in category D.2 'equipment' (Article 6.2.D.2).*

6.4 Conditions for in-kind contributions provided by third parties free of charge to be eligible

In-kind contributions provided free of charge are eligible direct costs (for the beneficiary *[or linked third party])*, if the costs incurred by the third party fulfil — *mutatis mutandis* — the general and specific conditions for eligibility set out in this Article (Article 6.1 and 6.2) and Article 12.1.

1. In-kind contributions by third parties free of charge (A-F)

Contributions provided by third parties *free of charge* are **eligible** if:

- they fulfil — *mutatis mutandis* — the **general conditions** and **specific conditions** for costs to be eligible *(see Article 6.1 and 6.2)* and
- they fulfil the **additional** cost eligibility **conditions** set out in Article 12.1.

Depending on the type of cost, they must be **declared** (by the beneficiary/linked third party) under the budget category they would use for their own costs.

Example: *Depreciation costs of equipment contributed free of charge must be declared in category D.2 'equipment' (Article 6.2.D.2).*

In-kind contributions *free of charge* must be **distinguished** from **in-kind contributions *against payment*** *(see Article 11)*.

In-kind contributions *against payment* are costs *of* the beneficiary (because they have to pay) and are therefore already explicitly mentioned in the different budget categories *(see Article 6.2.A.3, 6.2.D.2, 6.2.D.3)*. Their costs (i.e. the payment) must be declared under those specific budget categories.

Examples:

1. *The cost of personnel seconded against payment must be declared in category A.3 'seconded personnel (against payment)' (Article 6.2.A.3).*

2. *Costs of equipment contributed against payment must be declared in category D.2 'equipment' (Article 6.2.D.2).*

The costs of in-kind contributions free of charge (i.e. the costs of the third party offering them) can be assimilated to beneficiary costs and must be declared in the budget category that the beneficiary would have used.

6.5 Ineligible costs

'**Ineligible costs**' are:

(a) costs that do not comply with the conditions set out above (Article 6.1 to 6.4), 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 *[Commission][Agency]*;

(viii) excessive or reckless expenditure;

(ix) deductible VAT;

(x) costs incurred during suspension of the implementation of the action (see Article 49);

(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 *[Commission][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, unless it can demonstrate that the operating grant does not cover any costs of the action [;][.]

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

6.6 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

1. Ineligible costs

Costs are **ineligible**, if one of the following applies:

- they **do not meet the general and specific eligibility conditions** set out in Articles 6.1 to 6.4

  Examples: *additional remuneration ('bonuses') paid by for-profit or non-profit entities do not fulfil the conditions set out in Article 6.2; subcontracting costs do not comply with Article 13*

- they are **listed in Article 6.5**, in particular:

  - costs related to **return on capital** or **return generated by an investment**

    Examples: *dividends paid as remuneration for investing in the action; remuneration paid as a share in the company's equity.*

– **debt and debt service charges**

'Debt service' is the amount paid on a loan in principal and interest, over a period of time.

> ***Example:*** *If a beneficiary takes a loan used to acquire equipment or consumables for the project of EUR 100 000 at 9 percent interest for 10 years, the debt service for the first year (principal and interest) is EUR 15 582*

– **provisions for future losses or debts**

'Provision' means an amount set aside in an organisation's accounts, to cover for a known liability of uncertain timing or amount. This includes allowances for doubtful or bad debts.

– **interest owed** (i.e. interest on a loan to borrow capital)

– **excessive or reckless expenditure**

'Excessive' means paying significantly more for products, services or personnel than the prevailing market rates or the usual practices of the beneficiary (and thus resulting in an avoidable financial loss to the action).

'Reckless' means failing to exercise care in the selection of products, services or personnel (and thus resulting in an avoidable financial loss to the action).

– **currency exchange losses** (i.e. for beneficiaries using currencies other than euros or being invoiced in a currency other than the currency they use: any loss due to exchange rate fluctuations *(e.g. between the date of invoicing and the date of payment)*)

– **bank costs** charged by the beneficiary's bank for transfers from the Commission/Agency.

Conversely, bank charges for the distribution of the EU funding may constitute an eligible cost for the coordinator (if the eligibility conditions of Article 6.1 and Article 6.2.D.3 are met).

– **deductible VAT**

'Deductible VAT' means VAT that is recoverable under the national 'VAT system' (i.e. the system of collection and deduction under the national VAT legislation). Such VAT is not a genuine and definitive cost and, according to accounting standards, should not be recorded as such. Therefore, it is not actually incurred by the beneficiary.

The cost and revenue accounts should exclude deductible VAT; such VAT should be recorded in *separate* payable or receivable accounts, without effect on revenue or cost line items.

> The VAT *paid* is a claim against the tax authority. It should be recorded in the 'assets' part of the balance sheet. It should not be recorded as expenditure in the profit and loss accounts (only the purchase price of goods and services *excluding* VAT should be recorded). Similarly, for the value of purchased equipment or assets, only the net purchase cost should be recorded in the balance sheet's fixed asset line, and the depreciation cost should be calculated based on this value, excluding VAT.
>
> The VAT *collected* is a debt towards the tax authority and should therefore be recorded in the 'liabilities' part of the balance sheet.

Conversely, if VAT is NOT deductible, it is an eligible cost.

> The full price of the goods or services bought by the beneficiary can be recorded as expenditure in its profit and loss accounts, without any distinction

between the net price and the amount of VAT charged on it. The full price of equipment and assets bought can be recorded in the balance sheet's fixed asset line and is the basis for the depreciation allowances recorded in the profit and loss accounts.

- **costs incurred during the suspension of the implementation of the action**

  Example: *Action is suspended and one of the beneficiaries continues working on it after the date of the suspension*

- **costs declared under another EU or Euratom grant** (i.e. double funding)

  This includes:

  - costs funded directly by EU programmes managed by the Commission or Executive Agencies *(e.g. other H2020 grants)*
  - costs managed/funded/awarded by Member States but co-funded with EU/Euratom funds *(e.g. European Structural and Investment Funds (ESIF))*
  - costs for grants awarded/funded/managed by other EU, international or national bodies and co-funded with EU/Euratom funds *(e.g. Joint Undertakings, Article 185 TFEU bodies)*
  - if a beneficiary is receiving an operating grant[30] from the EU/Euratom, then the indirect costs of that beneficiary are not eligible and the 25% flat-rate should not be applied — unless it can demonstrate that the operating grant does not cover any costs of the action *(see Article 6.2.E)*.

    Examples (operating grants): *Grants awarded to support the running costs of certain institutions pursuing an aim of European interest, such as: College of Europe, European standards bodies (CEN, CENELEC, ETSI).*

- **cost categories explicitly excluded in the work programme/call** (if option applies).

If a beneficiary **declares ineligible costs**, the ineligible costs will be rejected and, if needed, other measures specified in Chapter 6 *(e.g. suspension, termination, grant reduction, etc.)* may be taken.

Specific cases (ineligible costs):

Non-identifiable VAT (in foreign invoices) — In exceptional cases where the beneficiary cannot identify the VAT charged by the supplier *(e.g. small non-EU invoices)*, the full purchase price can be recorded in the accounts if it is not possible to deduct the VAT. That VAT would therefore be eligible.

Partially deductible VAT — Some entities have a mixed VAT regime, meaning that they carry out VAT exempt or out-of-the-scope activities AND VAT taxed activities. When VAT paid on goods or services by these entities cannot be directly allocated to one or the other category of activities it will be *partially* deductible. Therefore it will also be *partially* eligible. The eligible part corresponds to the pro-rata of the VAT which is not deductible for that entity.

In these cases, the beneficiary uses a provisional (estimated) deduction ratio during the year. The final ratio is only determined at the end of the fiscal year. The beneficiary must regularise VAT when closing its accounts. Therefore, the beneficiary must also regularize the VAT costs declared for the grant (by declaring, in the next reporting period, an adjustment for the difference between the provisional deduction ratio and the final ratio).

Duties — The eligibility of duties depends on the eligibility of the cost item to which they are linked (i.e. in whose price they are included). If the item is eligible, the duty is also eligible.

---

[30] For the definition, *see Article 121(1)(b) of the 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.

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

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 43).

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

1. Proper implementation of the action

The beneficiaries must properly implement the action. This general obligation is twofold, i.e. they must:

- carry out the action (and especially the research work) as detailed in Annex 1 ('technical implementation')

  The beneficiaries must prevent delays in implementing the action, or reduce them as much as possible. In addition, they must immediately inform the Commission/Agency *(see Article 17)*.

AND

- comply with all the other provisions of the GA and all the applicable provisions of EU, international and national law.

  Example: *Each beneficiary must comply in particular with the labour law applicable to the personnel working on the action and must fulfil the tax and social obligations related to the activities it carries out under the applicable national law.*

⚠ Normally, the beneficiaries must comply **BOTH** with the national law of the **country** in which they are **established** AND that of the country where the **action** is **implemented**.

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION – THIRD PARTIES 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 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14);
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

The beneficiaries must normally have the **technical and financial resources** needed to carry out the action **themselves**.

The resources must be available **at the moment of the implementation of the work** (but not necessarily at the moment of submitting the proposal or signing the GA).

However, in these last two cases, the beneficiaries must show in the proposal how the resources will be made available when they are needed.

Examples (acceptable):

1. *Start-up company with no resources at the time of proposal submission, but with a credible business plan described in the application.*

2. *SME which, if successful, intends to double its capacity/staff.*

Example (not acceptable): *Consultancy company which submits a proposal where the majority of the work is subcontracted.*

As an exception, beneficiaries may purchase goods, works or services *(see Article 10)*, use in-kind contributions provided by third parties *(see Articles 11 and 12)* or call upon subcontractors or linked third parties to carry out work under the action *(see Articles 13 and 14)* and declare these costs for the action. They may also call on international partners to carry out work under the action without receiving EU funding (see Article 14a) (‘**third parties involved in the action**’).

⚠ Beneficiaries using third parties remain **fully responsible** for them under the GA.

⚠ **Linked third parties —** Linked third parties are allowed to *fully* participate in the action, like the beneficiary they are linked to. They will therefore be treated for many issues like beneficiaries.

Third parties involved in the action do NOT sign the GA *(see Article 1)*.

The **differences** between subcontracts *(Article 13)* and other contracts for purchase of goods, works or services *(Article 10)* are:

Article 10 **Contracts to purchase goods, works or services**	**Article 13** **Subcontracts**
These contracts do not cover the implementation of action tasks, but they are necessary to implement action tasks by beneficiaries.	Subcontracts concern the implementation of action tasks; they imply the implementation of specific tasks which are part of the action and are described in Annex 1.
Do not have to be indicated in Annex 1.	Must be indicated in Annex 1.
The price for these contracts will be declared as 'other direct costs' — column D in Annex 2 — in the financial statement; they will be taken into account for the application of the flat-rate for indirect costs.	The price for the subcontracts will be declared as 'direct costs of subcontracting' — column B in Annex 2 — in the financial statement; they will not be taken into account for the application of the flat-rate for indirect costs.

Example (contracts): *Contract for a computer; contract for an audit certificate on the financial statements; contract for the translation of documents; contract for the publication of brochures; contract for the creation of a website that enables action's beneficiaries to work together (if creating the website is not an action task); contract for organisation of the rooms and catering for a meeting (if the organisation of the meeting is not an action task mentioned as such in Annex 1); contract for hiring IPR consultants/agents.*

Example (subcontracts): *Contract for (parts of) the research or innovation tasks mentioned in Annex 1.*

The differences between subcontractors *(Article 13)* and contractors *(Article 10)* on one side and linked third parties *(Article 14)* on the other are:

Articles 10 & 13 **Contracts and subcontracts**	**Article 14** **Implementation by linked third parties**
The beneficiaries have a contractual link with contractors or subcontractors having as their object the purchase goods, works or services or the implementation of specific action tasks.	The beneficiaries have a legal link with the linked third parties not limited to the action and not based on a contract for the purchase goods, works or services or the implementation of specific action tasks. They must fulfil the same conditions for participation and funding under H2020 as beneficiaries (for instance, be established in an EU Member State, H2020 associated country or third country listed in General Annex A to the Main Work Programme). For more information on conditions for participation and funding, *see the Online Manual.*
The eligible costs are the prices charged to	The eligible costs are only the costs of the

the beneficiary by the contractors or subcontractors (usually containing a profit margin for the contractors or subcontractors but not for the beneficiary).	linked third party, no profit is allowed (neither for the linked third party nor for the beneficiary).
The beneficiary must award the contracts and subcontracts on the basis of best value for money (or lowest price) and absence of conflict of interests.	The linked third parties have to be affiliates to a beneficiary or must have a legal link (as explained in Article 14) with the beneficiary.

Example (implementation by linked third party): *Company X and company Y do not control each other, but they are both fully owned by company Z. Company X is beneficiary in the grant and company Y implements some of the action tasks described in Annex 1(Testing and analysis of the resistance of a new component under high temperatures).*

The differences between contracts *(Article 10)* and in-kind contributions against payment *(Article 11)* are:

Article 10 **Contracts**	**Article 11** **In-kind contributions against payment**
Contractors act as economic operators selling to the beneficiary goods, works or services that are necessary for the action.	Third parties contributing in-kind make available some of their resources to a beneficiary without this being their economic activity (*i.e. seconding personnel, contributing equipment, infrastructure or other assets, or other goods and services*).
The eligible costs are the prices charged to the beneficiary by the contractors or subcontractors (usually containing a profit margin for the contractors or subcontractors but not for the beneficiary).	The eligible costs are the amounts that the beneficiary pays to the contributors according to their agreements, within the limit of the third party's costs (the amounts to be paid to the contributors usually exclude a profit margin but if they do, the profit margin is not eligible).

Example (in-kind contribution against payment): *Civil servant working as a professor in a public university. His salary is paid by the government (the ministry) which employs him. According to the secondment agreement, the beneficiary (the university) has to reimburse the government an amount corresponding to the paid salary. The reimbursed amount is a cost for the beneficiary and is recorded as such in its accounts. The beneficiary will declare the amount reimbursed to the government in its financial statements.*

Example (in-kind contribution free of charge): *Civil servant working as a professor in a public university. His salary is paid not by the beneficiary (the university) but by the government (the ministry). According to the secondment agreement, the government does not ask any reimbursement in exchange (non-cash donation). The beneficiary will declare these salary costs in its financial statements, even if they are paid by a third party (the ministry/government).*

Specific cases (third parties involved in the action):

Authorisation to administer — Coordinators that are secondary or higher education establishments and public bodies may exceptionally delegate the administration of the payments to another legal entity (third party), in most cases a foundation.

The third party must fulfil the following conditions:

- it must have been granted an 'authorisation to administer' by the coordinator

AND

- it must be affiliated, controlled or set up by the coordinator in order to handle its administrative affairs, including receiving and administering EU funds.

⚠ **Project management —** Coordination and administration tasks are considered **action tasks**.

⚠ Coordinators using a third party with authorisation to administer remain **fully responsible** for it under the GA.

In this case, the bank account number to be provided under Article 21.8 must be that of the entity and the payments will be transferred directly to it. The entity must therefore be registered in the Beneficiary Register and validated by the Commission/Agency. It will get its own PIC — although it is not a beneficiary.

The costs of the entity may be declared by the coordinator as in-kind contributions (free of charge or against payment; *see Articles 6, 11 and 12*).

This table gives an **overview** of the different kinds of **third parties**:

TYPE	CHARACTERISTICS						
	Works on action tasks?	**Provides resources or services for action?**	**What is eligible?**	**Must be indicated in Annex 1?**	**Indirect costs?**	**Selecting the third party**	**GA articles**
Linked third party	**YES**	**NO**	**Costs**	**YES**	**YES**	Must be affiliated or have a legal link	Article 14
International partners	**YES**	**NO**	**N/A**	**YES**	**N/A**	Must not be eligible for funding	Article 14a
Subcontractor	**YES**	**NO**	**Price**	**YES**	**NO**	Must be best value for money, avoid conflict of interest	Article 13
Third party providing in-kind contribution	**NO**	**YES**	**Costs**	**YES**	**YES**	May not be used to circumvent the rules	Articles 11 and 12
Contractor (selling, equipment, good or service)	**NO**	**YES**	**Price**	**NO**	**YES**	Must be best value for money, avoid conflict of interest	Article 10
Third parties receiving financial support[31]	The third parties participate in the action as recipients.		**Amount of support given**	**YES**	**NO**	According to the conditions in Annex 1	Article 15

[31] Only if allowed in the work programme/call.

ARTICLE 9 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING

ARTICLE 9 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING

[OPTION 1 for beneficiaries not receiving EU funding: 9.1 Rules for the implementation of action tasks by beneficiaries not receiving EU funding

*Beneficiaries that [are not eligible for EU funding][or][request zero funding] ('**beneficiaries not receiving EU funding**') must implement the action tasks attributed to them in Annex 1 according to Article 7.1.*

Their costs are estimated in Annex 2 but:

- *will not be reimbursed and*
- *will not be taken into account for the calculation of the grant (see Articles 5.2, 5.3 and 5.4, and 21).*

[OPTION A, to be used if the beneficiary not receiving EU funding IS NOT the coordinator and does not have linked third parties receiving EU funding: *Chapter 3, Articles 10 to 15, 18.1.2, 20.3(b), 20.4(b), 20.6, 21, 23a, 26.4, 27.2, 28.1* ***[OPTION:*** *(with the exception of additional exploitation obligations)****]****, 28.2, 30.3, 31.5, 40, 42, 43, 44, 47 and 48 do not apply to [****OPTION 1 by default****: these beneficiaries][****OPTION 2 if more than one of the three options apply to the grant****: [insert short name of the beneficiary]].*

*[They][The beneficiary] will not be subject to financial checks, reviews and audits under Article 22.****]***

[OPTION B, to be used if the beneficiary/coordinator not receiving EU funding has linked third parties receiving EU funding: *Chapter 3, Articles 10 to 15, 20.6, 23a and 40 do not apply to [****OPTION 1 by default****: these beneficiaries][****OPTION 2 if more than one of the three options apply to the grant****: [insert short name of the beneficiary]].*

*Articles 26.4, 27.2, 28.1 [****OPTION:*** *(with the exception of additional exploitation obligations)], 28.2, 30.3, 31.5 do not apply to results generated without EU funds.*

*[These beneficiaries][The beneficiary] will not be subject to financial checks, reviews and audits under Article 22 for [their][its] own costs.****]***

[OPTION C, to be used if the beneficiary not receiving EU funding IS the coordinator and does not have linked third parties receiving EU funding: *Chapter 3, Articles 10 to 15, 18.1.2, 20.6, 23a, 26.4, 27.2, 28.1 [****OPTION:*** *(with the exception of additional exploitation obligations)], 28.2, 30.3, 31.5 and 40 do not apply to [****OPTION 1 by default****: these beneficiaries][****OPTION 2 if more than one of the three options apply to the grant****: [insert short name of the beneficiary]].*

*[They][The beneficiary] will not be subject to financial checks, reviews and audits under Article 22 for [their][its] own costs.****]***

Beneficiaries not receiving EU funding may provide in-kind contributions to another beneficiary. In this case, they will be considered as a third party for the purpose of Articles 11 and 12.

*[****additional OPTION for beneficiaries requesting zero funding****: If a beneficiary requesting zero funding receives funding later on (through an amendment; see Article 55), all obligations will apply retroactively.]*

9.2 Consequences of non-compliance

If a beneficiary not receiving EU funding breaches any of its obligations under this Article, its participation in the Agreement may be terminated (see Article 50).

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

***[OPTION 2:** Not applicable]*

1. Beneficiaries not receiving EU funding

This optional Article will be inserted into the GA if the action is implemented with beneficiaries that do not receive EU funding.

Beneficiaries not receiving EU funding — They participate in the action as beneficiaries, but NOT with EU funding. They must carry out the work under the action and comply with the GA (although not with *all* its obligations; the financial obligations and some IPR obligations do not apply for them).

'**Beneficiaries not receiving EU funding**' are either:

- 'beneficiaries **not eligible** for funding', i.e. beneficiaries which:
  - are NOT from an EU Member State, H2020 associated country or third country listed in General Annex A to the Main Work Programme AND
  - were NOT granted exceptional EU funding by the Commission/Agency (during the selection procedure)

For more information on third country participants, *see the Online Manual (international cooperation).*

Beneficiaries that (exceptionally) become eligible for funding during the action, may in principle request funding (as from their eligibility), if the grant agreement is amended to change Articles 9, 57 and Annex 2 (*see Article 55*).

Since the maximum grant amount cannot be increased *(see Article 5.1)*, this would only be possible if the consortium reshuffles the estimated budget in order to free funding for the beneficiary concerned.

Moreover, costs incurred *before* the amendment would be eligible ONLY as from the date of eligibility for funding and if they comply with all the obligations under the GA *(e.g. for actual personnel costs must be supported by time records in accordance with Article 18).*

- 'beneficiaries **requesting zero funding**', i.e. beneficiaries that are eligible for funding, but decided not to request any funding.

Beneficiaries requesting zero funding may in principle request funding later on, if the GA is amended (to change Article 9 and Annex 2; *see Article 55*).

Since the maximum grant amount cannot be increased *(see Article 5.1), this would only be possible if the* consortium reshuffles the estimated budget in order to free funding for the beneficiary concerned.

Moreover, costs incurred *before* the amendment would be eligible ONLY if they comply with all the obligations under the GA retroactively *(e.g. for actual personnel costs must be supported by time records in accordance with Article 18).*

Their tasks will appear in Annex 1 and their estimated costs (although not eligible) in Annex 2.

Although they participate as beneficiaries in the action, NOT all of the obligations under the GA apply to them. (Which obligations apply or do not apply depends on their role in the grant and if the beneficiary has linked third parties that receive EU funding or not).

This table shows the **GA obligations** that do **NOT apply** to beneficiaries not receiving EU funding (marked by X under each option).

Beneficiary	Articles 5, 6 — Grant amount, form of grant, reimbursement rates and forms of costs	Articles 10 to 15 — Purchases, subcontracting, in-kind contributions, etc	Article 18.1.2 — Keeping records for costs	Article 20.3.(b) and Article 20.4.(b) — Financial reports	Article 20.6 — Currency for financial statements	Article 21 — Payments	Article 22 — Financial checks, reviews and audits	Article 23a — Management of IP	Article 26.4 and Article 27.2 — EU ownership to protect results	Article 28.1 — Obligation to exploit results *	Article 28.2 — Results contributing to standards	Article 30.3 — EU/Agency right to object to transfers or licensing	Article 31.5 — Access rights for EU and MS	Article 40 — Assignment of claims	Article 42 to 44 — Rejection of costs, reduction, recovery	Articles 47 and 48 — Suspension of payments
Option 1 — IS NOT coordinator and does not have third parties receiving EU funding	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Option 2 — HAS linked third parties receiving EU funding	X	X			X		Do not apply for the own costs of the beneficiary	X	Do not apply only for results generated without EU funds					X		
Option 3 — IS coordinator and does NOT have linked third parties receiving EU funding	X	X	X		X		Do not apply for the own costs of the beneficiary	X	X	X	X	X	X	X		

* with the possible exception of additional exploitation obligations, which is a suboption to be activated where applicable

Apart from this, they are treated like the other beneficiaries.

The other obligations apply, just like for normal beneficiaries *(e.g. provide requested information and* allow *technical checks, reviews, audits, investigations or evaluations of the action's impact; maintain confidentiality; comply with security-related obligations; promote the action and give visibility to the EU funding).*

In case of **breach** of any **of** their **obligations**, their participation may be terminated and any of the other Chapter 6 measures (except for rejection of costs or recovery) may be taken.

Examples:

1. *A beneficiary not receiving EU funding does not carry out the tasks attributed to it in Annex 1. At the end of the action, only part of the action is implemented ➔ the Commission may, at the payment of the balance, if the action tasks were not properly implemented, reduce the grant awarded in accordance with Article 43.*

2. *In addition, the beneficiary has breached fundamental ethical principles ➔ it may be excluded from all contracts or grants financed by the EU or Euratom for a maximum period of five years (see Article 45).*

Best practice: The Commission/Agency will assess the consequences of breach of obligations or improper implementation by beneficiaries not receiving EU funding at action level (not at beneficiary level). Therefore, beneficiaries are advised to foresee this situation — before signature of the GA — in the **consortium agreement**.

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

10.1 Rules for purchasing goods, works or services

10.1.1 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 35).

[OPTION:** In addition, if the value of the purchase exceeds EUR […], the beneficiaries must comply with the following rules: […][23]**]

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 22 and 23 also towards their contractors.

10.1.2 Beneficiaries that are 'contracting authorities' within the meaning of Directive 2004/18/EC[24] (or 2014/24/EU)[25] or 'contracting entities' within the meaning of Directive 2004/17/EC[26] (or 2014/25/EU)[27] 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 contract concerned will be ineligible (see Article 6) and will be rejected (see Article 42).

If a beneficiary breaches any of its obligations under Article 10.1.2, the grant may be reduced (see Article 43).

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

[23] If the authorising officer decides to set specific rules, they should have due regard for the principle of proportionality, taking into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk. Specific rules must be based on the rules contained in the Financial Regulation. Simply citing the FR without specifying the applicable provisions should be avoided. Specific rules may only be set for the award of contracts of a value higher than EUR 60 000. The authorising officer may set a threshold higher than EUR 60 000 on the basis of a risk assessment.

[24] 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).

[25] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p. 65).

[26] 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)

[27] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

1. Purchase of goods, works or services

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

Purchases — For the purposes of the GA, '**purchase contract**' means ordinary contract for services, works *(i.e. buildings)* or goods *(e.g. equipment)*, needed to carry out the action, including the purchase of consumables and supplies.

***Example (contracts):** Contract for a computer; contract for an audit certificate on the financial statements; contract for the translation of documents; contract for the publication of brochures; contract for the creation of a website that enables an action's beneficiaries to work together (if creating the website is not an action task); contract for logistic support (e.g. organisation of the rooms, catering) for organising a meeting (if this is not an action tasks described as such in Annex 1); contract for hiring IPR consultants/agents.*

The differences between purchase contracts, subcontracts, in-kind contributions against payment and implementation by linked third parties are explained in Article 8.

Characteristics of purchase contracts:

- They are usually limited in cost and scope.

⚠ Article 10 contains both additional cost eligibility conditions (in Article 10.1.1) and 'other obligations' (in Article 10.1.2).

2. Additional cost eligibility condition: Best value for money or lowest price

The beneficiaries must base their purchases either on the best value for money (considering the quality of the service, good or work proposed, i.e. the **best price-quality ratio**) or on the lowest price.

This requirement reflects the **general cost eligibility condition** set out in Article 6.1(a)(vii) (i.e. that costs must be reasonable and comply with the principle of sound financial management) and applies it specifically to the purchasing context.

The best value for money principle does NOT in all cases require **competitive selection procedures**. However, if a beneficiary did not request several offers, it must demonstrate how best value for money was ensured.

For the best price-quality ratio, price is an essential aspect (together with quality criteria, *such as technical quality, etc.*), but it is NOT automatically necessary to select the offer with the **lowest price**. Selecting the lowest price may however be appropriate for automatic award procedures where the contract is awarded to the company that meets the conditions and quotes the lowest price.

Example: *electronic tendering for consumables*

In order to provide a good analysis of the price-quality ratio, the criteria defining quality must be clear and coherent with the purposes of the purchase.

Occasionally (and only for contracts with a value higher than EUR 60 000) the Commission/Agency may set out **additional conditions** (in view of the possible financial risks, taking into account the size of the contract and the grant amount). These conditions must be described in the work programme/call — as special eligibility conditions for the purchase costs — and be based on the rules which the European Commission applies for its own procurement contracts.

Examples (additional conditions): *minimum number of offers received; publication in the Official Journal or in specific media such as internet, national newspapers, etc.*

3. Additional cost eligibility condition: Controls on the contractor (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the contractor *(see Article 22)*.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the contractor *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

4. 'Other obligation': Compliance with national procurement rules

Beneficiaries that are 'contracting authorities' or 'contracting entities' (within the meaning of the EU public procurement Directives 2014/24/EU and 2014/25/EU[32] must **moreover** comply with the applicable **national law on public procurement**. These rules normally provide for special procurement procedures, for the types of contracts they cover.

> 'Contracting authority' means the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or one or several of such bodies governed by public law *(see Article 2.1(1) of Directive 2014/24/EU)*.
>
> > 'Bodies governed by public law' also include entities financed mostly by the State, regional or local authorities, or other bodies governed by public law and entities controlled by those bodies (for the full definition, *see Article 2.1(4) of that Directive*).
>
> 'Contracting entities' means entities operating in a utilities sector (water, energy, transport, postal services). They may be contracting authorities, public undertakings or entities operating on the basis of special or exclusive rights *(for the full definition, see Article 4 of Directive 2014/25/EU)*.

Specific cases (purchases):

Purchases between beneficiaries — Are in principle not accepted. If a beneficiary needs supplies from another beneficiary, it is the latter beneficiary that should charge them to the action. (Otherwise there is the risk that the grant is used to charge commercial profit margins.) Purchases between beneficiaries will only be accepted in exceptional and properly justified cases *(e.g. beneficiary A is the usual supplier of beneficiary B for a generic consumable that beneficiary B needs for the action)*.

Framework contracts or **subcontracts** — Framework contracts can be used for selecting a provider if this is the usual practice of the beneficiary (e.g. for a type of goods). In order to be eligible, the framework contract must (have) be(en) awarded on the basis of best-value-for-money and absence of conflict of interest. The framework contract does not necessarily have to be concluded before the start of the action.

---

[32] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

ARTICLE 11 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT

ARTICLE 11 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT

11.1 Rules for the use of in-kind contributions against payment

If necessary to implement the action, the beneficiaries may use **in-kind contributions** provided by third parties **against payment**.

The **beneficiaries may declare costs related to the payment** of in-kind contributions as eligible (see Article 6.1 and 6.2), **up to the third parties' costs** for the seconded persons, contributed equipment, infrastructure or other assets or other contributed goods and services.

The **third parties and their contributions must be set out in Annex 1**. The *[Commission][Agency]* may however **approve** in-kind contributions not set out in Annex 1 **without amendment** (see Article 55), if:

- they are specifically justified in the periodic technical report and
- their use does 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 22 and 23 also towards the third parties.

11.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the costs related to the payment of the in-kind contribution will be ineligible (see Article 6) and will be rejected (see Article 42).

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

1. In-kind contributions by third parties against payment

If necessary to implement the action, the beneficiaries may use in-kind contributions provided by third parties against payment.

A 'third party' can be any legal entity that has not signed the GA (see Article 1).

This Article refers to in-kind contributions (*i.e. non-financial resources of third parties put at the beneficiaries' disposal*) that beneficiaries receive **against payment**. In this case, the beneficiary makes a payment and therefore incurs a cost.

Example (in-kind contributions against payment): *medical equipment provided by a hospital (against a fee) to a university in order to carry out research*

Both this Article and Article 12 only refer to in-kind contributions; they do NOT concern the case of linked third parties carrying out part of the *action tasks* described in Annex 1 *(see Article 14)*.

⚠ Article 11 contains additional cost eligibility conditions.

2. Additional cost eligibility condition: Costs of the payment to the third party, up to the third parties' costs

The beneficiaries may declare their costs for paying the in-kind contribution *(e.g. the invoice from the third party),* but only up to the costs incurred by the third party — if the other eligibility conditions are fulfilled *(see in particular Article 6.1 and 6.2; e.g. necessary for the action, recorded in the accounts of the beneficiary, etc.).*

If the amount paid by the beneficiary is lower than the cost incurred by the third party, the beneficiary may in addition declare the difference as in-kind contributions free of charge (see Article 12). If it decides to do so, it may have to declare that difference also as receipt (*see Article 5.3.3*).

For the upper limit (third party's costs), normally only the *direct* costs *actually* incurred by the third party will be taken into account.

The following costs may however be quantified using unit costs (to ensure similar costing as for charging costs under the GA):

- for personnel costs: hourly rate on the basis of usual costs accounting practices (alternative to actual costs; *see Article 6.2.A.1*)
- for SME owner costs: hourly rate fixed by Commission Decision C(2013) 8197[33] *(see Article 6.2.A.4)*
- for internally invoiced goods and services: unit cost on the basis of usual accounting practices *(see Article 6.2.D.5)*
- for unit costs for clinical studies: unit cost fixed in the grant agreement (alternative to actual costs; *see Article 6.2.F*).

The actual costs must be identifiable and verifiable in the third party's accounts.

The *indirect* costs of the third party are either:

- NOT taken into account: if the resources (in-kind contribution) are used on the beneficiary's premises

or

- taken into account: if the in-kind contributions are NOT used on the beneficiary's premises (*but, for instance, on the third party's premises*).

  In this case, the direct costs actually incurred by the third party may be increased by a flat-rate of 25% on those costs.

Example (no indirect costs of the third party accepted):

A researcher is seconded to a beneficiary by a legal entity. This researcher works for the beneficiary on its premises. The third party charges the researcher's direct costs (salary and related social security charges of EUR 50 000) and is reimbursed by the beneficiary.

Additionally, the beneficiary has eligible direct costs of EUR 200 000.

The third party's direct costs equal EUR 50 000.

Total eligible costs declared by the beneficiary are:

- *total eligible direct costs: EUR 200 000 (direct costs of beneficiary) + EUR 50 000 (up to the amount of third party's direct costs) = EUR 250 000*
- *eligible indirect costs; 25%* EUR 250 000 = EUR 62 500. No work was subcontracted, and no financial support by third parties was given.*

TOTAL eligible costs declared by the beneficiary: EUR 250 000 + EUR 62 500 = EUR 312 500

Example (direct costs of third party plus a 25% flat-rate for indirect costs):

[33] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf

A legal entity makes available to a beneficiary the use of an installation or specialised piece of infrastructure that the beneficiary needs for the action. The third party charges the full direct and indirect costs of this and is reimbursed by the beneficiary.

The costs of the third party equal EUR 20 000 of actual direct costs plus EUR 8 000 of actual indirect costs. This is a cost for the beneficiary, which may declare it for the action. However, since in H2020 actions indirect costs are reimbursed on the basis of a flat-rate of 25% of the direct eligible costs (calculated as indicated in Article 6.2.E of the GA), the beneficiary will declare as eligible costs for in-kind contributions against payment only EUR 20 000 (payment of third party's direct costs) + EUR 5 000 for (cap for payment of third party's indirect costs) (flat-rate of 25% of 20 000) = EUR 25 000.

Additionally, the beneficiary has got eligible direct costs of EUR 200 000.

Total eligible costs declared by the beneficiary are:

- *total eligible direct costs: EUR 200 000 (direct costs of the beneficiary)+ EUR 25 000 (eligible costs of in-kind contributions against payment) = EUR 225 000*
- *eligible indirect costs: EUR 50 000= 25%* EUR 200 000 (direct costs of the beneficiary, excluding costs of in-kind contributions not used in its premises). No work was subcontracted, and no financial support by third parties was given.*

TOTAL eligible costs declared by the beneficiary: EUR 225 000 + EUR 50 000 = EUR 275 000.

If an audit shows that the costs declared by the beneficiary are higher than those incurred by the third party, the difference will be rejected as ineligible (even if they correspond to the amount actually paid by the beneficiary).

3. Additional cost eligibility condition: Third parties and their contributions be set out in Annex 1 — Simplified approval procedure

The **third parties**, their **in-kind contributions** (*i.e. non-financial resources*) and an estimation of the **costs budgeted** for the in-kind contributions must be set out in **Annex 1** of the GA.

If the in-kind contributions are NOT used on the beneficiary's premises, their estimated costs must be also set out in **Annex 2** (additional information column).

New in-kind contributions — If the need for third parties' in-kind contributions was not known at the moment of the signature of the GA, the coordinator must request an **amendment** of the GA in order to introduce it in the Annex 1. Exceptionally, the Commission/Agency may approve costs related to in-kind contributions not included in Annex 1 without formally amending the GA ('**simplified approval procedure**').

Example (approval): *A new researcher is brought into a team working during the action's second year of implementation. The beneficiary fails to inform the coordinator of the fact that this researcher is seconded from a public research centre to the beneficiary (a university), and therefore the GA is not amended (to include this in Annex 1). These circumstances are explained and justified in the technical report which includes the work carried out by this researcher.*

Approval will NOT be granted if the in-kind contribution risks to substantially change the nature of the project (i.e. there is doubt whether the project is still (in substance) the same as the one that was selected or whether the beneficiary has still the operational capacity to carry out the action).

Example (no approval): *A proposal includes a beneficiary owning a prestigious laboratory and employing a specialised team of technicians in the field of the call. The proposal is selected after evaluation, taking into account the value provided by the involvement of this laboratory in the action. The GA is signed, but then the beneficiary decides to carry out the tests in another laboratory of a third party, without informing the Commission and amending the GA.*

⚠ The approval is at the discretion of the Commission/Agency and there is no automatic entitlement to it. Beneficiaries that rely on the 'simplified approval procedure' bear the **full risk** of non-approval and rejection of costs by the Commission/Agency.

4. Additional cost eligibility condition: Controls on the third parties (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits, and investigations on the third parties (see Article 22), and in particular audit their underlying costs.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the third parties *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

ARTICLE 12 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE

ARTICLE 12 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE

12.1 Rules for the use of in-kind contributions free of charge

If necessary to implement the action, the beneficiaries may use **in-kind contributions** provided by third parties **free of charge**.

The beneficiaries may declare **costs incurred by the third parties** for the seconded persons, contributed equipment, infrastructure or other assets or other contributed goods and services as eligible in accordance with Article 6.4.

The third parties and their contributions must be set out in Annex 1. The *[Commission][Agency]* may however approve in-kind contributions not set out in Annex 1 without amendment (see Article 55), if:

- they are specifically justified in the periodic technical report and
- their use does 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 22 and 23 also towards the third parties.

12.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the costs incurred by the third parties related to the in-kind contribution will be ineligible (see Article 6) and will be rejected (see Article 42).

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

1. In-kind contributions by third parties free of charge

If necessary to implement the action, the beneficiaries may use **in-kind contributions** provided by third parties free of charge.

This Article refers to the case where a third party makes available some of its resources to a beneficiary, for free (i.e. without any payment, contrary to the case covered by Article 11). In this case, the beneficiary itself makes no payment and there is therefore NO cost incurred by the beneficiary. However, the GA provides that it may charge the costs incurred by the third party for its in-kind contribution *(see also Article 6.4)*.

Examples (in-kind contributions free of charge):

Civil servant working as a professor in a public university. His salary is paid not by the beneficiary (the university) but by the government (the ministry). The beneficiary will declare these salary costs in its individual financial statements, even if they are paid by a third party (the ministry/government).

Foundations, spin-off companies, etc., created in order to handle the administrative/financial tasks of the beneficiary. This is typically the case of a legal entity created or controlled by a beneficiary (usually public bodies like universities/ministries) which is in charge of the financial administration of the beneficiary, but which does not perform scientific/technical work in the action. This third party handles the financial and administrative aspects of the beneficiaries' involvement in RTD actions — including issues related to employment and payment of personnel, purchase of equipment, consumables, etc. — with the aim in most cases to improve and rationalise the administrative and financial management of these public bodies.

⚠ Article 12 contains additional cost eligibility conditions.

2. Additional cost eligibility condition: Costs of the third party

The beneficiaries may declare the costs of the third party for the in-kind contribution, if the eligibility conditions set out in Article 12.1 and in *Article 6.4* are fulfilled (*e.g. actually incurred by the third party, necessary for the action, incurred during the action duration, etc.).*

The costs must be recorded in the accounts *of the third party*.

Normally, only the *direct* costs *actually* incurred by the third party may be declared.

The following costs may however (alternatively) be quantified using unit costs (to ensure similar costing as for charging costs under the GA):

- for personnel costs: hourly rate on the basis of usual costs accounting practices (alternative to actual costs; *see Article 6.2.A.1*)
- for SME owner costs: hourly rate fixed by Commission Decision C(2013) 8197[34] *(see Article 6.2.A.4)*
- for internally invoiced goods and services: unit cost on the basis of usual accounting practices *(see Article 6.2.D.5)*
- for unit costs for clinical studies: unit cost fixed in the grant agreement (alternative to actual costs; *see Article 6.2.F*).

The *indirect* costs of the third party are either:

- NOT taken into account: if the resources (in-kind contribution) are used in the beneficiary's premises

or

- taken into account: if the in-kind contributions are used on the third party's premises.

  In this case, the direct costs actually incurred by the third party may be increased by a flat-rate of 25% on those costs; but the beneficiary may NOT include them a second time to calculate its own indirect costs.

Free of charge in-kind contributions may also have to be declared as receipts *(see Article 5.3.3(c))* — capped by the amount declared as third party costs for the contribution.

If an audit shows that the direct costs declared by the beneficiary are higher than those incurred by the third party, the difference will be rejected as ineligible.

3. Additional cost eligibility condition: Third parties and their contributions set out in Annex 1 — Simplified approval procedure

The **third parties**, their **in-kind contributions** and an estimation of the **costs budgeted** for the in-kind contributions must be mentioned in Annex 1 of the GA.

If the in-kind contributions are NOT used on the beneficiary's premises, their estimated costs must be also set out in **Annex 2** (additional information column).

[34] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf

New in-kind contributions — If the need for third parties' in-kind contributions was not known at the moment of the signature of the GA, the coordinator must request an **amendment** of the GA in order to introduce it in the Annex 1. Exceptionally, the Commission/Agency may approve costs related to in-kind contributions not included in Annex 1 without formally amending the GA ('**simplified approval procedure**'; *see Article 11*).

4. Additional cost eligibility condition: Controls on the third parties (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the third parties *(see Article 22)*, and in particular to audit their costs.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the third parties *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

13.1 Rules for subcontracting action tasks

13.1.1 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 35).

[OPTION:** In addition, if the value of the subcontract to be awarded exceeds EUR [...], the beneficiaries must comply with the following rules: [...][28]**]

***[OPTION for actions involving PCP or PPI:** In addition, for the pre-commercial procurement (PCP) or procurement of innovative solutions (PPI), the beneficiaries must follow a transparent and non-discriminatory procedure, including at least the following:*

*(a) an '**open market consultation**' published in the Official Journal of the European Union via a '**prior information notice (PIN)**' and promoted and advertised widely;*

*(b) a '**contract notice**' allowing for a time-limit for receipt of tenders of at least 2 months, published in the Official Journal of the European Union and promoted and advertised widely;*

*(c) a '**request for tenders**' based on functional or performance-based specifications (that take into account the outcome of the open market consultation) and describing the practical set-up for the implementation of the subcontract(s);*

*(d) an objective and non-discriminatory **evaluation** of the tenders and **award** of subcontract(s) to the tender(s) offering **best value for money**;*

*(e) a '**contract award notice**' published in the Official Journal of the European Union.*

The beneficiaries must also ensure that every prior information notice, contract notice or contract award notice published in relation to the subcontracting includes the following disclaimer:

> *"This procurement receives funding under the European Union's Horizon 2020 research and innovation programme under the grant agreement No [number]). The EU is however not participating as a contracting authority in this procurement."**]***

***[OPTION 1 only for actions involving PPI:** Participation in PPI tendering procedures must be open on equal terms to tenderers from EU Member States, associated countries and other countries with which the EU has an agreement in the field of public procurement. If the WTO Government Procurement Agreement applies, PPI subcontracts must also be open to tenderers from States that have ratified this agreement.*

*If the procurement of the innovative solution (PPI) consists (and is limited to) buying a set of prototypes and/or test products that were developed during a preceding PCP action, the beneficiaries do not need to make an open market consultation, contract notice and contract award notice under Points (a), (b) and (e) above. In this case, they must make a **request for tenders** from at least **three providers** (including the providers that participated in the preceding PCP), in accordance with the negotiated procedure without publication under Directives 2004/18/EC (or 2014/24/EU) and 2004/17/EC (or 2014/25/EU)[29].**]***

[28] If the authorising officer decides to set specific rules, they should have due regard for the principle of proportionality, taking into account the value of the contracts and the relative size of the EU contributions in relation to the total cost of the action and the risk. Specific rules must be based on the rules contained in the Financial Regulation. Simply citing the FR without specifying the applicable provisions should be avoided. Specific rules may only be set for the award of contracts of a value higher than EUR 60 000. The authorising officer may set a threshold higher than EUR 60 000 on the basis of a risk assessment.

[29] See Articles 28 and 31(2)(a) of Directive 2004/18/EC replaced by Articles 26 and 32(3)(a) of Directive 2014/24/EU and Article 40(3)(b) of Directive 2004/17/EC replaced by Article 50(b) of Directive 2014/25/EU.

[OPTION 2 only for actions involving PCP: *The subcontracts for pre-commercial procurement must provide for the following:*

- *the ownership, by the subcontractors, of the intellectual property rights on the results that they generate;*
- *the right of the buyers to access results — on a royalty-free basis — for their own use;*
- *the right of the buyers to grant (or to require the subcontractors to grant) non-exclusive licences to third parties to exploit the results — under fair and reasonable conditions — (without the right to sub-licence);*
- *the obligation of the subcontractors to transfer to the buyers the ownership of intellectual property generated by subcontractors during the PCP, if subcontractors fail to commercially exploit the results within the period set out in the subcontract;*
- *the right of the buyers to publish — at the time of the contract award notice — the identity of the winning tenderers and a project summary provided by the winning tenderers, and to publish — after R&D has finished and after consulting the subcontractors — summaries of the results as well as the identities of the subcontractors that successfully completed the last phase of the PCP.*

*The beneficiaries must ensure that the majority of the research and development work done by the subcontractor(s) (including the work of the main researchers) is located in the EU Member States or associated countries ('place of performance obligation').**]***

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 *[Commission][Agency]* may however **approve** subcontracts not set out in Annex 1 and 2 **without amendment** (see Article 55), 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.

[OPTION for classified information: *Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the [Commission][Agency] (see Article 37).**]***

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 22 and 23 also towards their subcontractors.

13.1.2 The beneficiaries must ensure that their obligations under Articles 35, 36, 38 and 46 **also apply** to the subcontractors.

Beneficiaries that are 'contracting authorities' within the meaning of Directive 2004/18/EC (or 2014/24/EU) or 'contracting entities' within the meaning of Directive 2004/17/EC (or 2014/25/EU) **must comply** with the applicable national law on public procurement.

13.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 13.1.1, the costs related to the subcontract concerned will be ineligible (see Article 6) and will be rejected (see Article 42).

If a beneficiary breaches any of its obligations under Article 13.1.2, the grant may be reduced (see Article 43).

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

1. Subcontracting

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

⚠ **Subcontractors —** Subcontractors participate in the action by carrying out action tasks *for* the beneficiary. They are NOT beneficiaries and therefore have no direct obligations under the grant agreement (but their beneficiaries must ensure that they comply with certain key obligations).

Subcontract — For the purposes of the GA, a '**subcontract**' means the purchase of goods, works or services *that are identified in Annex 1 as action tasks*.

Example (subcontracts): *Contracts for (parts of) the research or innovation tasks mentioned in Annex 1.*

The differences between purchase contracts, subcontracts, in-kind contributions against payment and implementation by linked third parties are explained in Article 8.

Characteristics of subcontracting:

- Based on business conditions

  This means that the subcontractor charges a price, which usually includes a profit (— this distinguishes it from linked third parties; *see Article 14*).

- Subcontractor works without the direct supervision of the beneficiary and is not hierarchically subordinate to the beneficiary (— this distinguishes it from action tasks implemented by in-house consultants; *see Article 6.2.A.2).*

- Subcontractor's motivation is pecuniary, not the research work itself. The subcontractor is paid by the beneficiary in exchange for its work.

- Responsibility towards the EU/Euratom for the subcontracted work lies fully with the beneficiary.

  The beneficiary remains responsible for all its rights and obligations under the GA, including the tasks carried out by a subcontractor.

- Subcontractor has no rights or obligations towards the Commission/Agency or the other beneficiaries (it has no contractual relation with them).

Examples (subcontracts):

Testing and analysis of the resistance of a new component under high temperatures, if described in Annex 1 as action task.

Only **limited parts of the action** may be subcontracted — except for actions involving PCP/PPI (because the PCP/PPI action tasks are by definition fully subcontracted).

The beneficiaries must make special arrangements regarding **results** produced by the subcontractors (in order to be able to fully comply with their obligations under the GA; *see Article 26.3*).

⚠ **Security obligations —** Stricter rules apply for action tasks that involve information that is **EU-classified** or results that are subject to **limited disclosure/dissemination** in Annex 1 of the GA *(see Article 37).*

For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

⚠ Article 13 contains both additional cost eligibility conditions (in Article 13.1.1) and 'other obligations' (in Article 13.1.2).

2. Additional cost eligibility condition: Best value for money or lowest price

The beneficiaries must base their subcontracts either on the best value for money (considering the quality of the service proposed, i.e. the **best price-quality ratio**) or on the lowest price.

This requirement reflects the **general cost eligibility condition** set out in Article 6.1(a)(vii) (i.e. that costs must be reasonable and comply with the principle of sound financial management) and applies it specifically to the subcontracting context.

The best value for money principle does NOT in all cases require **competitive selection procedures**. However, if a beneficiary did not request several offers, it must demonstrate how best value for money was ensured.

For the best price-quality ratio, price is an essential aspect (together with quality criteria, such as technical quality, etc.), but it is NOT automatically necessary to select the offer with the **lowest price**. Selecting the lowest price may however be appropriate for automatic award procedures where the subcontract is awarded to the company that meets the conditions and quotes the lowest price.

In order to provide a good analysis of the price-quality ratio, the criteria defining quality must be clear and coherent with the purposes of the action task that is subcontracted.

3. Additional cost eligibility conditions for actions involving PCP or PPI

This additional option will be inserted into the GA if the action involves pre-commercial procurement (PCP) or procurement of innovative solutions (PPI).

⚠ This concerns research and innovation actions or innovation actions *with* a PCP or PPI.

This should NOT be confused with PCP/PPI action (separate type of action, which use a different model grant agreement and whose *main* action task is the implementation of the PCP or PPI).

The additional rules mirror the key obligations for PCP/PPI actions from the H2020 MGA PCP/PPI.

4. Additional cost eligibility condition: Tasks set out in Annex 1 — Total estimated costs of subcontracting set out in Annex 2 — Simplified approval procedure

The **tasks to be implemented** and the **estimated cost** for each subcontract must be set out in Annex 1.

It is the work (i.e. the action tasks) to be performed by a subcontractor that must be identified in Annex 1. The name of the subcontractors is in principle not necessary.

The description should also include an estimation of costs for each subcontract.

Moreover, it should explain the need for a subcontract, taking into account the specific characteristics of the action.

⚠ If the **name** of the subcontractor is known at the time of the grant signature the beneficiary may indicate it in Annex 1. However, the fact that the name of the subcontractor is indicated in Annex 1 does not imply the approval of the Commission of the subcontract (or the subcontracting costs). For example, if the subcontractor was not selected based on best value-for-money the Commission may reject the costs even if its name was indicated in Annex 1.

Additionally, the **total estimated costs for subcontracting** per beneficiary must appear in the table of estimated costs of Annex 2.

New subcontracts — If the need for a subcontract is not foreseen at the moment of the signature of the GA, the coordinator must request an **amendment** of the GA in order to introduce it in Annex 1 and 2. Exceptionally, the Commission/Agency may approve costs related to subcontracts not included in Annex 1 and 2 without formally amending the GA ('**simplified approval procedure**').

The new subcontract must be included and explained in the technical periodic report (in the section 'unforeseen subcontractor').

Approval will NOT be granted if the subcontract risks to substantially change the nature of the project (i.e. there is a doubt whether the project is still (in substance) the same as the one that was selected or whether the beneficiary has still the operational capacity to carry out the action).

Example (approval): *A beneficiary loses some personnel specialised in a particular field, and as a result decides to subcontract some tasks it had originally foreseen to carry out itself. The beneficiary fails to inform the coordinator of this fact and therefore the GA is not amended. These circumstances are declared in the periodic report and it is approved by the Commission.*

Example (no approval): *A key beneficiary leaves the consortium and the coordinator subcontracts all the tasks of this beneficiary.*

⚠ The approval is at the full discretion of the Commission/Agency and there is no automatic entitlement to it. Beneficiaries that rely on the 'simplified approval procedure' bear the **full risk** of non-approval and rejection of costs by the Commission/Agency.

5. Additional cost eligibility condition: Controls on the subcontractor (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the subcontractor *(see Article 22)*.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the subcontractors *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

6. 'Other obligation': Extension of obligations under the GA to subcontractors

The beneficiaries must ensure that the subcontractors comply with certain obligations under the GA.

Obligations that must be extended to subcontractors:

- Avoiding conflicts of interest *(see Article 35)*
- Maintaining confidentiality *(see Article 36)*

- Promoting the action and give visibility to the EU funding *(see Article 38)*
- Liability for damages *(see Article 46)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the subcontractors.

Best practice: In order to be able to fulfil this obligation, the beneficiaries should impose contractual arrangements on the third parties.

7. 'Other obligation': Compliance with national procurement rules

Beneficiaries that are 'contracting authorities' or 'contracting entities' (within the meaning of the EU public procurement Directives 2014/24/EU and 2014/25/EU[35]) must **moreover** comply with the applicable **national law on public procurement**. These rules normally provide for a special procurement procedure for the types of contracts they cover.

'Contracting authority' means the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or one or several of such bodies governed by public law *(see Article 2.1(1) of Directive 2014/24/EU)*.

'Bodies governed by public law' also include entities financed mostly by the State, regional or local authorities, or other bodies governed by public law and entities controlled by those bodies (for the full definition, *see Article 2.1(4) of that Directive*).

'Contracting entities' means entities operating in a utilities sector (water, energy, transport, postal services). They may be contracting authorities, public undertakings or entities operating on the basis of special or exclusive rights *(for the full definition see Article 4 of Directive 2014/25/EU)*.

Specific cases (subcontracting):

Subcontracting between beneficiaries — Is NOT allowed in the same GA. All beneficiaries contribute to and are interested in the action; if one beneficiary needs the services of another in order to perform its part of the work it is the second beneficiary who should declare the costs for that work.

Subcontracting to affiliates — Is NOT allowed, unless they have a framework contract or the affiliate is their usual provider, and the subcontract is priced at market conditions. Otherwise, these affiliates may work in the action, but they must be identified as linked third parties under Article 14 and declare their own costs.

Coordination tasks of the coordinator *(e.g. distribution of funds, review of reports and others tasks listed under Article 41.2(b))* — Can NOT be subcontracted. Other activities of the coordinator may in principle be subcontracted.

Framework contracts or **subcontracts** — Framework contracts can be used for selecting a provider if this is the usual practice of the beneficiary (e.g. for a type of service). In order to be eligible, the framework contract must (have) be(en) awarded on the basis of best-value-for-money and absence of

[35] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

conflict of interest. The framework contract does not necessarily have to be concluded before the start of the action.

ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES

ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES

[OPTION 1: 14.1 Rules for calling upon linked third parties to implement part of the action

*14.1.1 The following **affiliated entities**[30] and **third parties with a legal link to a beneficiary**[31] ('**linked third parties**') may implement the action tasks attributed to them **in Annex 1**:*

- *[name of the entity (short name)], affiliated or linked to [short name of the beneficiary] [**OPTION if joint and several liability has been requested:**, if it has accepted **joint and several liability** with the beneficiary (see Annex 3a)]*
- *[name of the entity (short name)], affiliated or linked to [short name of the beneficiary] [**OPTION if joint and several liability has been requested:**, if it has accepted joint and several liability with the beneficiary (see Annex 3a)]*

[same for more linked third parties]

*The linked third parties 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 22 and 23 also towards their linked third parties.*

14.1.2 The beneficiaries must ensure that their obligations under Articles 18, 20, 35, 36 and 38 also apply to their linked third parties.

14.2 Consequences of non-compliance

If any obligation under Article 14.1.1 is breached, the costs of the linked third party will be ineligible (see Article 6) and will be rejected (see Article 42).

If any obligation under Article 14.1.2 is breached, the grant may be reduced (see Article 43).

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

[OPTION 2:** Not applicable**]

[30] For the definition see Article 2.1(2) Rules for Participation Regulation No 1290/2013: '**affiliated entity**' means any legal entity that is:
- under the direct or indirect control of a participant, or
- under the same direct or indirect control as the participant, or
- directly or indirectly controlling a participant.

'Control' may take any of the following forms:
(a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:
(a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
(b) the legal entities concerned are owned or supervised by the same public body.

[31] **'Third party with a legal link to a beneficiary'** is any legal entity which has a legal link to the beneficiary implying collaboration that is not limited to the action.

1. Linked third parties

This optional Article (together with the corresponding options in Article 6 and other provisions) will be inserted into the GA if the action is implemented with linked third parties.

⚠ **Linked third parties —** Linked third parties are allowed to participate in the action, like the beneficiary they are linked to. They are NOT beneficiaries, but they are allowed to participate fully in the action and receive EU funding; they will therefore be treated for many issues (including cost eligibility; see *Article 6.3*) like beneficiaries and their beneficiaries must ensure that they comply with certain key obligations.

⚠ **Combining H2020 & other EU grants —** The terminologies under different EU funds/funding programmes may differ *(e.g. 'linked third parties' under H2020 are the SAME as 'affiliated entities' under the Financial Regulation, while 'affiliated entities' under H2020 is NARROWER than 'affiliated entities' under the Financial Regulation (see Articles 2.1(2) and 23(5) of the Rules for Participation Regulation No 1290/2013 and Article 122 of the Financial Regulation No 966/2012).*

Characteristics of implementation by linked third parties:

- Linked third party does not charge a price, but declares its *own costs* for implementing the action tasks
- Linked third party itself performs certain action tasks directly and is responsible for them towards the beneficiary. Linked third parties do NOT sign the GA (and are therefore not beneficiaries).
- The beneficiary remains responsible towards the Commission/Agency for the work carried out by the linked third party.

  Moreover, the beneficiaries are financially responsible for any undue amount paid by the Commission/Agency as reimbursement of costs for their linked third parties — unless the GA foresees joint and several liability (see Article 44.1).
- Work is attributed to the linked third party (in Annex 1) and is usually carried out on its premises
- Work is under the full and direct control, instructions and management of the linked third party, who carries out this part of the action (with its employees).

Only **affiliated entities** or **entities with a legal link to a beneficiary** can be linked third parties.

'Entities with a legal link' refers to an established relationship (between the third party and the beneficiary), which is:

– broad and not specifically created for the work in the GA

  Accordingly, its duration must go beyond the action duration and it usually pre-dates and outlasts the GA; 'ad hoc' collaboration agreements or contracts to carry out work in the action are NOT covered. (In this latter case, both legal entities should be beneficiaries.)

AND

– a legal relationship.

  This may be either a legal structure (*e.g. the relationship between an association and its members)* or through an agreement or contract not limited to the action *(e.g. a collaboration agreement for research in a particular field)*.

  If the only relation between two entities is a *capital link* (i.e. ownership of part of the issued share capital), the entity may only participate as a linked third party if it is an 'affiliated entity' *(see below)*.

'Affiliated entity' means:

– under the direct or indirect control of the beneficiary or

- under the same direct or indirect control as the beneficiary or
- directly or indirectly controlling the beneficiary.

Affiliated entities cover not only the case of parent companies or holdings and their daughter companies or subsidiaries and vice-versa, but also the case of affiliates between themselves *(e.g. entities controlled by the same entity)*.

Examples (entities with a legal link):

1. Joint Research Units (JRU) *(i.e. research laboratories/infrastructures created and owned by two or more different legal entities in order to carry out research)* ***—*** *They do not have a separate legal personality, but form a single research unit where staff and resources from the different members are put together to the benefit of all. Though lacking legal personality, they exist physically, with premises, equipment, and resources individual to them and distinct from 'owner' entities. A member of the JRU is the beneficiary and any other member of the JRU contributing to the action and who is not a beneficiary of the GA has to be identified in Article 14. The JRU has to meet all the following conditions:*

- *scientific and economic unity*
- *last a certain length of time*
- *recognised by a public authority.*

It is necessary that the JRU itself is recognised by a public authority, i.e. an entity identified as such under the applicable national law. The beneficiary must provide to the Commission/Agency, a copy of the resolution, law, decree, decision, attesting the relationship between the beneficiary and the linked third party(ies), or a copy of the document establishing the 'joint research unit', or any other document that proves that research facilities are put in a common structure and correspond to the concept of scientific and economic unit.

2. Associations, foundations *or* ***other legal entities composed of members —*** *The association/foundation etc. is the beneficiary and the members are the linked third parties.*

Examples (affiliated entities):

1. *Company A established in France holding 20% of the shares in Company B established in Italy. However, with 20% of the shares it has 60% of the voting rights in company B. Therefore, company A controls company B and both companies may be linked third parties in a H2020 GA.*

2. *Company X and company Y do not control each other, but they are both owned by company Z. They are both considered affiliated entities.*

Linked third parties must fulfil the same **conditions for participation** and funding under H2020 as beneficiaries (for instance, be established in an EU Member State, H2020 associated country or third country listed in General Annex A to the Main Work Programme).[36]

Example: *Company A established in the UK is a beneficiary in a grant. A owns B, a French company and also owns C, an US company. B & C may be considered affiliates to A, however only B may declare costs as a third party linked to A, because company C is established in a third country that is not eligible for funding under Article 10 of the Rules for Participation Regulation No 1290/2013.*

For more information on conditions for participation and funding, *see the Online Manual*.

They must be **named** in Article 14 and their action tasks and estimated costs must be set out in Annexes 1 and 2 already at the moment of the GA signature (or if the linked third party is added later, through an amendment; *see Article 55*).

The beneficiaries must make special arrangements regarding **results** produced by the linked third parties (in order to be able to fully comply with their obligations under the GA; *see Article 26.3*).

The Commission/Agency may (during the selection procedure) **require joint and several liability of a linked third party**, if:

- the financial viability/capacity of a beneficiary is 'weak' and
- the beneficiary mainly coordinates the work of its linked third party.

Examples:

[36] *See Articles 9 and 10 of the Rules for Participation Regulation No 1290/2013.*

1. The financially weak beneficiary is an association and most of the work is carried out by several of its members as linked third parties.

2. The financially weak beneficiary is a small company with a substantial part of its work implemented by a bigger affiliated company.

3. The proposal submitted by four independent entities established in four Member States is positively evaluated. The four successful applicants decide to form a legal entity to simplify the management of the project. The newly established entity will be the beneficiary, i.e. a new legal entity. The successful applicants will carry out the work as linked third parties of the new legal entity.

If requested, the third party must accept joint and several liability with the beneficiary.

In this case it must sign a declaration (on paper and in blue-ink, using Annex 3a) to be submitted by the beneficiary at the moment of its accession to the GA (or of the amendment introducing the linked third party in the GA*; see Article 56*). The linked third party must send the original to the beneficiary (by registered post with proof of delivery), who must upload it (as a scanned PDF copy) in the system.

⚠ **Record-keeping —** The beneficiary must keep the original of the linked third party in its files.

The liability is for any amount owned by the beneficiary under the GA, and up to the linked third party's maximum EU contribution in Annex 2.

For more information on the financial viability/capacity check, *see the Online Manual*.

Entities performing a **substantial part of the work** (i.e. action tasks) should in principle be **beneficiaries**, NOT linked third parties. Linked third parties should only exceptionally perform a major part of the R&I work.

Examples:

1. Entities specifically established for the purpose of implementing the action (e.g. EEIGs).

2. National research associations established according to the national law in order to carry out research not limited to the action.

3. A group of legal entities (companies/research organisations) that have a common research agenda and that have a structure consisting of an association coordinating the research. This structure/consortium is not limited to the H2020 action and the members have strong contractual commitments among each other and the coordinating association. The association represents its members and coordinates administratively their work in the action, even if it is not performing any R&I work in the action. In this case, the association may be the beneficiary and the members of the association are its linked third parties carrying out the R&I work.

⚠ Article 14 contains both additional cost eligibility conditions (in Article 14.1.1) and 'other obligations' (in Article 14.1.2).

2. Additional cost eligibility condition: Linked third parties identified in Article 14 — Tasks set out in Annex 1 — Estimated costs set out in Annex 2 — No simplified approval procedure

The linked third parties must be named in Article 14 and their tasks and estimated costs must be identified in Annexes 1 and 2 already at the moment of the GA signature (or added later, through an amendment; *see Article 55*).

There is NO 'simplified approval procedure'.

3. Additional cost eligibility condition: Costs of the linked third party

The linked third parties may declare *their costs* (in their financial statements; *see Article 20.3*), if the **eligibility conditions** set out in Article 6.3 are fulfilled *(e.g. actually incurred by the linked third party, necessary for the action, incurred during the action duration, etc.)*.

The costs must be recorded in the accounts of the linked third party.

Linked third parties may declare costs for all cost categories (as provided for in Article 5), including indirect costs (at the 25% flat rate).

Each linked third party declares its own costs. The costs of the linked third party must not be included in the beneficiary's financial statements.

Each linked third party has its own **financial statements**, but these statements must be *submitted by its beneficiary* (since linked third parties cannot sign them in the IT system; *see Article 20*).

For this purpose, linked third parties must send their signed financial statements on paper to their beneficiary.

Record-keeping — The beneficiary must keep the original of the linked third party in its files *(see Article 18.1.2)*.

Each linked third party has to provide its own ***certificate* on the financial statements** (**CFS**; *see Article 20.4*).

The threshold of EUR 325 000 applies to each linked third party (independently of its beneficiary).

Record-keeping — The beneficiary must keep the original of the linked third party in its files *(see Article 18.1.2)*.

4. Additional cost eligibility condition: Controls on the linked third parties (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the linked third parties *(see Article 22)*, and in particular to audit their costs and proper implementation of action tasks.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the linked third parties *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

5. 'Other obligation': Extension of obligations under the GA to linked third parties

The beneficiaries must ensure that the linked third parties comply with certain obligations under the GA.

Obligations that must be extended to linked third parties:

- Record-keeping obligations *(see Article 18)*
- Reporting *(see Article 20)*
- Avoiding conflicts of interest *(see Article 35)*

- Maintaining confidentiality *(see Article 36)*
- Promoting the action and give visibility to the EU funding *(see Article 38)*

Best practice: In order to be able to fulfil this obligation, the beneficiaries should impose contractual arrangements on the third parties.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the linked third parties.

ARTICLE 14a — IMPLEMENTATION OF ACTION TASKS BY INTERNATIONAL PARTNERS

ARTICLE 14a — IMPLEMENTATION OF ACTION TASKS BY INTERNATIONAL PARTNERS

[OPTION 1: 14a.1 Rules for calling upon international partners to implement part of the action

*The following **international partners**[37] may implement the action tasks attributed to them in Annex 1:*

- *[name of the entity (short name)], international partner of [short name of the beneficiary]*
- *[name of the entity (short name)], international partner of [short name of the beneficiary]*

[same for more international partners]

The costs of the international partners are estimated in Annex 2 but:

– *will not be reimbursed and*

– *will not be taken into account for the calculation of the grant.*

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 22 and 23 also towards their international partners.

The beneficiaries must ensure that their obligations under Articles 18.1.1, 20.3(a), 20.4(a), 35, 36 and 38 also apply to their international partners.

14a.2 Consequences of non-compliance

If a beneficiary braches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

[OPTION 2:** Not applicable**]

[37] 'International partner' is any legal entity established in a non-associated third country which is not eligible for funding under Article 10 of the Rules for Participation Regulation No 1290/2013.

1. International partners

4.0 This optional Article (together with the corresponding options in Article 4) will be inserted into the GA if the action is implemented with international partners. It was introduced with GA version 4.0 and does NOT automatically apply to older grant agreements.

International partners — International partners are allowed to participate in the action without EU funding. They are NOT beneficiaries and do NOT receive EU funding; they therefore have no direct obligations under the grant agreement (but their beneficiaries must to ensure that they comply with certain key obligations).

Characteristics of implementation by international partners:

- International partners perform their action tasks directly. They do NOT sign the GA (and are therefore not beneficiaries).
- The beneficiary remains responsible towards the Commission/Agency for the action tasks performed by its international partner.
- International partners perform their action tasks without receiving EU funding, i.e. their costs are NOT eligible for reimbursement under the grant. Therefore, they will not be subject to financial checks, reviews or audits.

  The costs of the international partners are estimated in Annex 2 (to get an overview of the overall project budget). But this is for information purposes only, the international partners are not required to report on their costs.

International partners do NOT need to have a (capital or legal) link to the beneficiary (but they may have one).

They must NOT be eligible for funding, i.e. be established in a third country not listed in General Annex A to the Main Work Programme.

Example: *A consortium of legal entities from EU Member States, H2020 associated countries and third countries listed in General Annex A to the Main Work Programme wants to work with a legal entity established in New Zealand. Since the New Zealand entity would like to be involved in the action without requesting EU funding and without becoming a beneficiary, one of the beneficiaries may decide to list the New Zealand entity as its international partner and attribute certain action tasks to it (provided that the international partner agrees to the action tasks and the related obligations under the GA).*

They may be used to implement any of the action tasks.

They must be **named** in Article 14a and their action tasks and estimated costs must be set out in Annexes 1 and 2 already at the moment of the GA signature (or if the international partner is added later, through an amendment; *see Article 55*).

The beneficiaries must make special arrangements regarding **results** produced by the international partners (in order to be able to fully comply with their obligations under the GA; *see Article 26.3*).

Although they are not beneficiaries and do not receive EU funding, their beneficiaries must ensure that they comply with certain key (non-financial) obligations:

Thus, they must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Article 22 to verify the proper implementation of the action tasks and that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

Moreover, they must extend the following obligations under the GA to the international partners:

Obligations that must be extended to international partners:

- Record-keeping obligations (on the scientific and technical implementation; *see Article 18.1.1*)
- Technical reporting (in the required language; *see Article 20.3(a), 20.4(a) and 20.7)*
- Avoiding conflicts of interest *(see Article 35)*
- Maintaining confidentiality *(see Article 36)*
- Promoting the action and give visibility to the EU funding *(see Article 38).*

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the international partners.

ARTICLE 15 — FINANCIAL SUPPORT TO THIRD PARTIES

ARTICLE 15 — FINANCIAL SUPPORT TO THIRD PARTIES

15.1 Rules for providing financial support to third parties

[OPTION 1 to be used if foreseen in the work programme: *15.1.1 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 60 000 for each third party, 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 Agency,] the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can **exercise their rights** under Articles 22 and 23 also towards the third parties receiving financial support.*

*15.1.2 The beneficiaries must ensure that their obligations under Articles 35, 36, 38 and 46 **also apply** to the third parties receiving financial support.**]***

[OPTION 2: *Not applicable**]***

1. Financial support to third parties

This optional Article (together with the corresponding options in Article 6 and other provisions) will be inserted into the GA if the action involves financial support to third parties (i.e. funding by the beneficiary of (one or more) recipients that are not party to the GA, also called '**cascade funding**').

⚠ Actions may involve financial support to third parties ONLY where this is explicitly allowed in the work programme/call.

'Financial support' may be given via a financial donation to natural persons *(e.g. allowance, scholarship, fellowship)* or legal persons *(e.g. non-repayable financial assistance to local NGOs)*, seed money to start-ups or microcredit, or other forms. (For prizes, *see Article 15.2*)

Examples:

1. *An innovation project in the area of sustainable agriculture and forestry includes financial support for end-users (farmers) testing the technology developed within the action.*

2. *One of the work packages in Annex 1 includes funding for awarding three research scholarships in the field of the action.*

Support in kind *(e.g. transfer of material for free)* by the beneficiary to a third party is NOT considered financial support.

Linked third parties may provide financial support to third parties under the same conditions as the beneficiaries.

The recipients are not party to the GA and therefore do NOT need to be identified in the GA or have a PIC.

⚠ Article 15.1 contains both additional cost eligibility conditions (in Article 15.1.1) and 'other obligations' (in Article 15.1.2).

2. Additional cost eligibility condition: Conditions for support set out in Annex 1 — Maximum amount of the financial support — Types of activities — Categories of persons — Criteria for financial support

The beneficiaries must comply with the conditions for the support that are set out in Annex 1, and in particular:

- the maximum amount per third party

  The maximum amount may normally NOT be more than EUR 60 000 per recipient. A higher amount can exceptionally be set out in Annex 1, if the work programme/call explicitly allows it and the proposal (and Annex 1) explain why this is necessary for the objectives of the action.

  This is a limit *per* recipient; several recipients could receive up to EUR 60 000 each *(e.g.* 3 *grants of EUR 50 000 each)*.

- the criteria for determining the exact amount of financial support *(e.g. EUR 2 000 per hectare; EUR 30 000 per student for a two-year scholarship)*

  The financial support provided by the beneficiaries may take any form *(e.g. a lump sum or the reimbursement of the costs incurred by the recipients when implementing the supported activities)*.

- a clear and exhaustive list of the types of activities that qualify for financial support for third parties *(e.g. financial support for third parties allowed for technology-testing activities)*

  These activities should benefit, primarily, the recipients (NOT the beneficiaries).

  The financial support is NOT the same as subcontracting (see *Article 13*) or purchase of goods, works or services (*see Article 10*).

- the persons or category(ies) of persons that may receive it *(e.g. farmers; PhD students)*

  Beneficiaries should describe in Annex 1 the procedures for selecting the recipients.

- the criteria for giving financial support *(e.g. physical characteristics of the agricultural plots which make them suitable for the purpose of the action)*.

  These criteria should respond to the objectives set out in the work programme/call.

The conditions must also already be part of the proposal *(see the proposal templates)*.

3. Additional cost eligibility condition: Controls on the recipients (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the recipients *(see Article 22)*.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the recipients *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

4. 'Other obligation': Extension of obligations under the GA to recipients

The beneficiaries are responsible for the proper use of the funding by the recipients and must ensure that they comply with certain obligations under the GA.

Obligations that must be extended to recipients:

- Avoiding conflicts of interest *(see Article 35)*
- Maintaining confidentiality *(see Article 36)*
- Promoting the action and give visibility to the EU funding *(see Article 38)*
- Liability for damages *(see Article 46)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the recipients.

Best practice: In order to be able to fulfil this obligation, the beneficiaries should to impose contractual arrangements on the recipients (including control measures and/or reducing the financial support).

15.2 Financial support in the form of prizes

[OPTION 1 to be used if foreseen in the work programme: *15.2.1 The beneficiaries must provide prizes in accordance with the conditions described in Annex 1.*

At a minimum, these ***conditions*** *must include:*

(a) the conditions for participation;

(b) the award criteria;

(c) the amount of the prize, and

(d) the payment arrangements.

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 22 and 23 also towards the third parties receiving a prize.*

15.2.2 The beneficiaries must ensure that their obligations under Articles 35, 36, 38 and 46 ***also apply*** *to the third parties receiving a prize.****]***

[OPTION 2: *Not applicable****]***

15.3 Consequences of non-compliance

[OPTION 1 to be used if 15.1 and/or 15.2 are applicable: *If a beneficiary breaches any of its obligations under Articles 15.1.1 or 15.2.1, the costs related to the financial support or prize will be ineligible (see Article 6) and will be rejected (see Article 42).*

If a beneficiary breaches any of its obligations under Articles 15.1.2 or 15.2.2, the grant may be reduced (see Article 43).

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

[OPTION 2: *Not applicable****]***

1. Financial support to third parties (via prizes)

This optional Article (together with the corresponding options in Article 6 and other provisions) will be inserted into the GA if the action involves financial support to third parties in the form of prizes.

> ***Example:*** *Inducement prize announced at the beginning of the action for identifying a (new) approach to dealing with a technical implementation problem to be tackled at the end of the action.*

Such prizes are NOT EU prizes (although the beneficiaries must promote the action and give visibility to the EU funding received; *see Article 38*).

⚠ Article 15.2 contains both additional cost eligibility conditions (in Article 15.2.1) and 'other obligations' (in Article 15.2.2).

2. Additional cost eligibility condition: Conditions for support set out in Annex 1 — Conditions for participation — Award criteria — Amount of the prize — Payment arrangements

Just like for financial support via grants, the beneficiaries must comply with the conditions for support that are set out in Annex 1 and in particular:

- the conditions for participation and the conditions for early termination of the contest, if any *(e.g. eligibility and exclusion criteria; deadline for submission of entries; possibility of hearings)*

- the award criteria for assessing the quality of entries in light of the objectives and expected results

  The criteria must be objective.

- the amount of the prize *(e.g. EUR 70 000)*

- the payment arrangements (usually one instalment).

3. Additional cost eligibility condition: Controls on the recipients (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the recipients of a prize, to verify that the conditions for the award of the prize have been respected *(see Article 22)*.

They must also ensure that the Commission/Agency has the right to make evaluations of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the recipients *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

4. 'Other obligation': Extension of obligations under the GA to recipients

The beneficiaries are responsible for the award of the prize to the recipients and must ensure that they comply with certain obligations under the GA.

Obligations that must be extended to recipients:

- Avoiding conflicts of interest *(see Article 35)*
- Maintaining confidentiality *(see Article 36)*
- Promoting the action and give visibility to the EU funding *(see Article 38)*
- Liability for damages *(see Article 46)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the recipients.

ARTICLE 16 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURE

ARTICLE 16 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURE

16.1 Rules for providing trans-national access to research infrastructure

[OPTION 1 for trans-national access to research infrastructure: *16.1.1 '**Access providers**'[32] must provide access to research infrastructure or installations[33] in accordance with the following conditions:*

*(a) **access which must be provided**:*

The access must be free of charge, trans-national access to research infrastructure or installations for selected user-groups.

This access must include the logistical, technological and scientific support and the specific training that is usually provided to external researchers using the infrastructure.

*(b) **categories of users that may have access**:*

*Trans-national access must be provided to selected '**user-groups**', i.e. teams of one or more researchers (users) led by a '**user group leader**'.*

The user group leader and the majority of the users must work in a country other than the country(ies) where the installation is located.

This rule does not apply:

- *if access is provided by an International organisation, the Joint Research Centre (JRC), an ERIC or similar legal entities;*
- *in case of remote access to a set of installations located in different countries offering the same type of service.*

Only user groups that are allowed to disseminate the results they have generated under the action may benefit from the access, unless the users are working for SMEs.

***Access** for user groups with a majority of users not working in a EU or associated country[34] is **limited** to 20% of the total amount of units of access provided under the grant, unless a higher percentage is foreseen in Annex 1;*

*(c) procedure and criteria for **selecting** user groups:*

The user groups must request access by submitting (in writing) a description of the work that they wish to carry out and the names, nationalities and home institutions of the users.

The user groups must be selected by a selection panel set up by the access providers.

The selection panel must be composed of international experts in the field, at least half of them independent from the beneficiaries, unless otherwise specified in Annex 1.

The selection panel must assess all proposals received and recommend a short-list of the user groups that should benefit from access.

The selection panel must base its selection on scientific merit, taking into account that priority should be given to user groups composed of users who:

- *have not previously used the installation and*

- *are working in countries where no equivalent research infrastructure exist.*

It will apply the principles of transparency, fairness and impartiality.

***[OPTION:** In addition, the beneficiaries must comply with the following additional rules for the selection of user groups: […]*[35]

(d) other conditions:

The access provider must request written approval from the [Commission][Agency] (see Article 52) for the selection of user groups requiring visits to the installation(s) exceeding 3 months, unless such visits are foreseen in Annex 1.

16.1.2 In addition, the access provider must:

1. *advertise widely, including on a dedicated website, the access offered under the Agreement;*
2. *promote equal opportunities in advertising the access and take into account the gender dimension when defining the support provided to users;*
3. *ensure that users **comply** with the terms and conditions of the Agreement;*
4. *ensure that its obligations under Articles 35, 36, 38 and 46 **also apply** to the users.*

[OPTION 2:** Not applicable**]

[32] **'Access provider'** means a beneficiary or linked third party that is in charge of providing access to one or more research infrastructure or installations, or part of them, as described in Annex 1.

[33] **'Installation'** means a part or a service of a research infrastructure that could be used independently from the rest. A research infrastructure consists of one or more installations.

[34] For the definition see 2.1(3) Rules for Participation Regulation No 1290/2013: '**associated country**' means a third country which is party to an international agreement with the Union, as identified in ***[OPTION for EU grants:** Article 7 of the H2020 Framework Programme Regulation No 1291/2013. Article 7 sets out the conditions for association of non-EU countries to Horizon 2020.]**[OPTION for Euratom grants:** Article 5 of Council Regulation (Euratom) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 – The Framework Programme for Research and Innovation ('**H2020 Euratom Research and Training Programme Regulation No 1314/2013**') (OJ L 347, 20.12.2013, p. 948) . Article 5 sets out the conditions for association of non-EU countries to Horizon 2020.]*

[35] If the authorising officer considers necessary to give priority to certain categories of users.

1. Trans-national access to research infrastructure

This optional Article (together with the corresponding options in Article 6 and other provisions) will be inserted into the GA if the action involves trans-national access to research infrastructure for scientific communities ('provision of access activities'), i.e.:

- actions under Part I of Horizon 2020, 'Research infrastructures' under the following topics:
  - 'integrating activities' (*INFRAIA-1-2014-2015*: Integrating and opening existing national and regional research infrastructures of European interest)
  - 'individual support'(*INFRADEV-3-2015*: Individual implementation and operation of ESFRI projects)
  - 'cluster support' (*INFRADEV-4-2014-2015*: Implementation and operation of cross-cutting services and solutions for clusters of ESFRI and other relevant research infrastructure initiatives).

For 'integrating activities', access to research infrastructure is a mandatory component, while it is optional for the other two topics. 'Cluster support' actions currently only include pilot provision of trans-national access, no virtual access *(see the Work Programme 2014-2015)*.

Grants for this type of action usually **reimburse** — for the provision of access activity — the following **types of costs**:

- 'access costs' (i.e. the operating costs of the research infrastructure[37] or installation[38] and costs related to logistical, technological and scientific support for users, including ad-hoc user training and the preparatory and closing activities needed to use the installation)

  'Access costs' for *trans-national* access may be declared as unit costs, actual costs or — under certain conditions — as a combination of the two *(see Articles 5.2(f) and 6.2.F)*, while the other costs in this list must be declared as actual costs *(see Articles 5.2(d) and 6.2.D)*.

  If access costs are declared as *unit cost*, they must be declared under the budget category F.2 'access costs for providing trans-national access to research infrastructure' *(see Article 5.2(f) and 6.2.F)*.

  If they are declared as *actual costs*, they must be declared under the other budget categories *(see Articles 5.2(a-e) and 6.2.A-E)*.

- users' travel and subsistence costs

- costs of advertising the trans-national access offered under the action

- costs related to the selection procedure *(e.g. the selection panel members' travel and subsistence costs, logistical costs of meetings, fees, etc.)*

- costs of preparing the detailed access activity information that must be included in the periodic technical reports *(see Article 20.3)*.

Capital investments (i.e. equipment costs for renting, leasing, purchasing depreciable equipment, infrastructure or other assets) will NOT be reimbursed (for the provision of access activities; *see Article 6.2.D.2*).

Trans-national access must be **measured** (in 'units of access').

The units of access for the various installations that provide trans-national access under the grant must be specified in Annex 1 of the GA.

Examples (units of access): *per beam-hour for a synchrotron; per night for a telescope; per number of frozen embryos for a mouse repository; per week of access for a historical archive; per campaign-day for a research vessel.*

For trans-national access, the GA will always specify a unit of access (independently of whether the costs are declared as unit cost or actual costs).

[37] For the definition of research infrastructure, *see Article 2(6) of the H2020 Framework Programme Regulation No (EU) No 1291/2013 and the footnote in Article 6.2.D.4 of the MGA:* '**Research infrastructure**' are facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, e.g. for education or public services. They include: major scientific equipment (or sets of instruments); knowledge-based resources such as collections, archives or scientific data; e-infrastructure such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieve excellence in research and innovation. Such infrastructure may be 'single-sited', 'virtual' or 'distributed'.

[38] **'Installation'** means a part or a service of a research infrastructure that could be used independently from the rest. A research infrastructure consists of one or more installations.

⚠ **Record-keeping —** The beneficiaries must keep appropriate records and supporting documentation to justify the number of units of trans-national access for which they declare costs *(see Article 18)*, including:

- users' names, nationalities and home institutions
- the nature of access and
- the number of units of access provided.

In addition, they must include (just like for virtual access) detailed information on the provision of access activity in the **periodic technical reports** *(see Article 20.3)*.

⚠ Article 16.1 contains both additional cost eligibility conditions (in Article 16.1.1) and 'other obligations' (in Article 16.1.2).

2. Additional cost eligibility condition: Access which must be provided

Trans-national access can be either:

- **in person** (hands-on), provided to selected users that visit the installation or
- **remote**, through the provision to selected users of remote scientific services.

  Examples (remote access): *provision of reference materials or samples (e.g. shipping of a virus strain); performing a remote sample analysis or sample deposition; remote access to a high-performance computing facility.*

  Remote trans-national access requires competitive selection of the users to be served under the GA as usually it applies to resources that are not unlimited *(e.g. computing hours on a supercomputer or remote analysis of a sample)*. It is thus different from virtual access, which applies to resources that can be simultaneously used by an unlimited number of users *(e.g. a dataset available on the internet)*.

Trans-national access must be given to selected user groups (free of charge).

3. Additional cost eligibility condition: Categories of users that may have access — Limited access for special user groups

For trans-national access, user groups in which all or most users work in non-associated **third countries** may ONLY have access for up to 20 % of the total number of units of access provided under the grant.

The consortium should itself define if this 20 % limit is uniformly applied to the different installations or if the above mentioned user groups may use some installations more than others. It should do this in the consortium agreement.

4. Additional cost eligibility condition: Selection procedure with a selection panel

For trans-national access, access providers must set up a common **selection panel** that regularly evaluates the applications for access and recommends a shortlist of the user groups that would benefit from access.

If justified, an access provider may use several different selection sub-panels.

Example: *Different thematic selection sub-panels could be set up for a set of analytical facilities serving multidisciplinary communities.*

5. 'Other obligation': Controls on the users (by the Commission/Agency, ECA and OLAF) — Evaluation of the impact of the action

The beneficiaries must ensure that the Commission/Agency, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits and investigations on the users *(see Article 22)*, and in particular to audit proper implementation of action tasks.

They must also ensure that the Commission/Agency has the right to make an evaluation of the impact of the action under Article 23.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the users *(for example, if they refuse access and the Commission/Agency cannot verify the eligibility of the costs, it will reject them).*

6. 'Other obligation': Extension of obligations under the GA to users

The beneficiaries must also ensure that the users comply with certain obligations under the GA.

Obligations that must be extended to users:

- Avoiding conflicts of interest *(see Article 35)*
- Maintaining confidentiality *(see Article 36)*
- Promoting the action and give visibility to the EU funding *(see Article 38)*
- Liability for damages *(see Article 46)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the users.

16.2 Rules for providing virtual access to research infrastructure

[OPTION 1 for virtual access to research infrastructure: *'**Access providers**'[36] must provide access to research infrastructure or installations[37] in accordance with the following conditions:*

*(a) **access which must be provided**:*

The access must be free of charge, virtual access to research infrastructure or installations.

'Virtual access' means open and free access through communication networks to resources needed for research, without selecting the researchers to whom access is provided;

(b) other conditions:

*The access provider must have the virtual access services **assessed periodically** by a board composed of international experts in the field, at least half of whom must be independent from the beneficiaries, unless otherwise specified in Annex 1.**]***

[OPTION 2:** Not applicable**]

16.3 Consequences of non-compliance

***[OPTION 1 to be used if 16.1 and/or 16.2 are applicable:** If a beneficiary breaches any of its obligations under Articles 16.1.1 and 16.2, the costs of access will be ineligible (see Article 6) and will be rejected (see Article 42).*

If a beneficiary breaches any of its obligations under Articles 16.1.2, the grant may be reduced (see Article 43).

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

[OPTION 2:** Not applicable**]

[36] '**Access provider**' means a beneficiary or linked third party that is in charge of providing access to one or more research infrastructures or installations, or part of them, as described in Annex 1.

[37] '**Installation**' means a part or a service of a research infrastructure that could be used independently from the rest. A research infrastructure consists of one or more installations.

1. Virtual access to research infrastructure

This optional Article (together with the corresponding options in Article 6 and other provisions) will be inserted into the GA if the action involves virtual access to research infrastructure for scientific communities ('provision of access activities'), i.e.:

- actions under Part I of Horizon 2020, 'Research infrastructures'.

H2020 grants will only support virtual services that are *widely* used by the community of European researchers.

Grants for this type of actions usually **reimburse** — for the provision of access activity — the following **types of costs**:

- operating costs of the installation during the course of the action
- costs related to technological and scientific support for users access *(e.g. a helpdesk)*

- costs of advertising virtual access offered under the action
- costs related to the assessment carried out by the board of international experts *(e.g. costs of organising a board meeting)*
- costs of preparing the detailed access activity information that must be included in the periodic technical reports *(see Article 20.3)* and the assessment report *(see below point 6)*.

The specific unit cost for access to research infrastructure (F.2) does NOT cover virtual access (only trans-national access).

Capital investments (i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure or other assets) will NOT be reimbursed — unless provided for in the work programme/call.

Virtual access can in principle NOT be **measured**; therefore the GA does not specify a unit of access for virtual access provision.

The beneficiaries must include detailed information on the provision of access activity in the **periodic technical reports**, in the form of statistics on all users in the reporting period compiled through web analytical tools *(see Article 20.3)*.

⚠ Article 16.2 contains additional cost eligibility conditions.

2. Additional cost eligibility condition: Access which must be provided

Virtual access applies to widely-used research resources that are openly and freely available **through communication networks**.

Example: *access to an open database available on the internet*

Access must be open to all users; users are not selected.

3. Additional cost eligibility condition: Periodic assessment by a board of international experts

For virtual access, the access services must be regularly assessed by an **external board** of international experts.

At least two assessments are usually carried out during the course of an action.

The assessment reports must already be part of the proposal (as deliverables; see the proposal templates) and be included in Annex 1 of the GA.

SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION

ARTICLE 17 — GENERAL OBLIGATION TO INFORM

SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION

ARTICLE 17 — GENERAL OBLIGATION TO INFORM

17.1 General obligation to provide information upon request

The beneficiaries must provide — during implementation of the action or afterwards and in accordance with Article 41.2 — any **information requested** in order to verify eligibility of the costs, proper implementation of the action and compliance with any other obligation under the Agreement.

17.2 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 Participant Portal Beneficiary Register (via the electronic exchange system; see Article 52) 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 *[Commission][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 linked third parties and*

(ii) changes in the name, address, legal form, organisation type of its linked third parties;]

(b) **circumstances** affecting:

(i) the decision to award the grant or

(ii) compliance with requirements under the Agreement.

17.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Requests for information

In addition to the specific information obligations set out in other parts of the GA *(e.g. Articles 22.1.2, 22.1.3 and 23)*, the Commission/Agency may request a beneficiary to provide any information it needs to verify that the beneficiary:

- properly implemented the tasks described in Annex 1
- complied with its obligations under the GA.

The Commission/Agency may request the information for **any purpose** *(e.g. checks for monitoring the action or assessing reports and requests for payment; reviews; audits; investigations; evaluation of the action's impact)*.

It may request **any type** of information it needs (including personal data, to order to verify that costs declared for specific people are eligible; *see Article 39*). The level of detail will depend on the purpose of the request.

The Commission/Agency may request the information at **any time**, either during the action or afterwards.

Examples:

1. *In an ex-post financial audit that starts 18 months after the balance is paid, the Commission/Agency may request any information it needs during the procedure. The audit may continue beyond the two years after the balance is paid (see Article 22).*

2. *The Commission may request information from the beneficiaries in order to evaluate the action's impact up to five years after the balance is paid (see Article 23).*

3. *The beneficiaries must comply with any additional exploitation obligations set out in Annex 1, for up to four years after the action ends (see Article 3). They are therefore obliged to provide any information the Commission/Agency requests to verify that the action was correctly implemented and that the beneficiaries complied with their obligations under the GA.*

The beneficiary concerned must provide accurate, precise and complete information, in the format and within the deadline requested *(see Article 22)*.

It is the coordinator who usually provides the information requested — unless the GA specifies direct communication with the other beneficiaries *(see Articles 20, 22, 23, 30, 41, 55)*.

If the coordinator no longer exists after the action ends *(e.g. if it went bankrupt)*, beneficiaries may provide the information requested directly to the Commission/Agency.

Until the balance is paid, all information is sent via the Participant Portal. Afterwards, information requests may have to be sent in writing by registered post with proof of delivery *(see Article 52)*.

2. Information in the Beneficiary Register

Each beneficiary must keep its information in the Beneficiary Register up-to-date, including after the end of the grant.

⚠ Updated information remains necessary both to contact the beneficiaries after the end of the action and if they want to participate in other EU grants.

The information includes:

- name
- address
- legal representatives
- legal form *(e.g. private limited liability company, public law body, S.A., S.L.)*
- organisation type *(e.g. SME, secondary or higher education establishment, etc.)*.

The IT system automatically informs the coordinator whenever a beneficiary updates its information.

ℹ For more information on beneficiary registration, validation and data updates, *see the Online Manual*.

3. Information likely to delay or affect the action or EU's financial interests

Each beneficiary must immediately inform the coordinator if an event is likely to significantly affect or delay the action's implementation or affect the EU's financial interests.

> ***Examples (situation likely to significantly affect or delay the action's implementation or affect the EU's financial interests):*** *a beneficiary is under financial stress and chooses to liquidate; a beneficiary is bought by another legal entity; a beneficiary plans to move its laboratory from a Member State to a non-EU country*

The beneficiaries must also inform the coordinator about any changes concerning their linked third parties.

For events linked to changes that also require an update of the Beneficiary Register *(see above)*, the beneficiary must **update** the Beneficiary Register *and* **inform the coordinator**.

The beneficiary must inform the coordinator offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.).*

Best practice: It is recommended that the beneficiary informs the coordinator in writing (not only orally).

After receiving the information from the beneficiary, the coordinator must immediately inform:

- the Commission/Agency, via the Participant Portal
- the other beneficiaries, through the usual communication channels (in writing and offline).

4. Information about circumstances affecting the decision to award the grant or compliance with requirements under the GA

Each beneficiary must immediately inform the coordinator about any situation that:

- could have affected the decision to award the grant if it had been known by the evaluators at the time of evaluation or
- could affect the fulfilment of obligations under the GA.

> ***Example (situation that could have affected the decision to award the grant or compliance with requirements under the GA):*** *A consortium has three beneficiaries. One of them has a laboratory with specialised equipment and personnel, including a team of internationally-renowned experts in the same field as the project. The quality of the work to be carried out by this laboratory was taken into account by the evaluators when the grant was awarded. During the action's implementation, the beneficiary sells the laboratory to an external company, losing a good part of the relevant expertise, and as a result has to outsource part of the work.*

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

18.1 Obligation to keep records and other supporting documentation

The beneficiaries must — for a period of ***[OPTION 1 by default:*** *five]****[OPTION 2 for low value grants[38]:*** *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 17) or in the context of checks, reviews, audits or investigations (see Article 22).

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 22), 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 *[Commission][Agency]* may accept non-original documents if it considers that they offer a comparable level of assurance.

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

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

18.1.2 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**: adequate records and other supporting documentation to prove the number of units declared. ***[OPTION for trans-national access to research infrastructure:*** *This documentation must include records of the names, nationalities, and home institutions of users, as well as the nature and quantity of access provided to them.****]*** 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.

In addition, **for unit costs calculated in accordance with the beneficiary's usual cost accounting practices**, the beneficiaries must keep adequate records and documentation to prove that the cost accounting practices used comply with the conditions set out in Article 6.2.

The beneficiaries *[and linked third parties]* may submit to the Commission, for approval, a certificate (drawn up in accordance with Annex 6) stating that their usual cost accounting practices comply with these conditions ('**certificate on the methodology**'). If the certificate is approved, costs declared in line with this methodology will not be challenged subsequently, unless the beneficiaries have concealed information for the purpose of the approval.

(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*[;][.]*

(d) ***[OPTION if lump sum foreseen in Article 5.2**: **for lump sum costs**: adequate records and other supporting documentation to prove that the corresponding tasks or part of the action as described in Annex 1 were implemented properly. The beneficiaries do not need to identify the actual eligible costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared as a lump sum.]***

In addition, **for personnel costs** (declared as actual costs or on the basis of unit 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 *[Commission][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 14 applies**: For costs declared by linked third parties (see Article 14), it is the beneficiary that must keep the originals of the financial statements and the certificates on the financial statements of the linked third parties.]

18.2 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 42), and the grant may be reduced (see Article 43).

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

[38] 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.

1. Records and other supporting documentation

The beneficiaries (for linked third parties, *see point 10*) must keep appropriate and sufficient evidence to **prove** the eligibility of all the costs declared, proper implementation of the action and compliance with all the other obligations under the GA.

⚠ Costs that are not supported by appropriate and sufficient evidence may be **rejected** (and other measures described in Chapter 6 may be applied as well).

'Sufficiency' relates to the quantity of evidence; 'appropriateness' relates to its quality. Evidence is considered sufficient and appropriate if it is persuasive enough for the auditors, who assess it according to generally accepted audit standards.[39]

All evidence must be verifiable, auditable and available.

It must therefore be correctly archived for at least 5 years after the balance is paid (three years for grants up to EUR 60 000). If the beneficiaries throw supporting documents away during this period, they risk that the grant is reduced, costs are declared ineligible or rejected, or recoveries are more difficult.

[39] International Standard on Auditing ISA 500 'Audit Evidence'.

If there are ongoing procedures such as audits, investigations or litigations, the evidence must be kept until these end, even if this is longer than five (or three) years.

The rules in the GA do not affect national laws on keeping documents (which may require additional measures).

2. Original documents

The beneficiaries must **keep original documents**.

The Commission/Agency will accept any document considered an original under national law.

Examples:

1. *The Commission will accept authenticated copies or digitally-signed documents, if national law accepts these as originals.*

2. *The Commission will accept digitalised copies of documents (instead of hard copies), if this is acceptable under national law.*

In principle, documents should be kept in the format in which they were received or created.

This means that:

- documents received or created in paper form should be kept in paper form
- documents received or created electronically should be kept in their electronic format.

  Hard copies of original electronic documents are not required.

3. Records for actual costs

For actual costs, the beneficiaries must:

- keep detailed records and other supporting documents to prove the eligibility of the costs declared
- use cost accounting practices and internal control procedures that make it possible to verify that the amounts declared, amounts recorded in the accounts and amounts recorded in supporting documentation match up.

Best practice: The information included in the financial statements for each budget category (i.e. personnel costs, other direct costs, indirect costs) must be broken down into details and must match the amounts recorded in the accounts and in supporting documentation.

Examples:

1. *For costs declared in category A.1 (employees or equivalent): the costs must be detailed for each person carrying out work for the action (individual hourly rate multiplied by the actual hours worked for the action). They must match the accounting records (i.e. general ledger transactions, annual financial statements) and supporting documentation (i.e. labour contracts, collective labour agreements, applicable national law on taxes, labour and social security contributions, payslips, time records, bank statements showing salary payments, etc.).*

2. *For costs declared in category D.1, D.2, D.3 and D.4 (other direct costs): the beneficiary must keep a breakdown of costs declared by type (i.e. travel costs and related subsistence allowances, depreciation, costs of other goods and services etc.). It should be able to provide details of individual transactions for each type of cost. For depreciation, it must be able to provide details per individual equipment used for the action. Declared costs must match accounting records (i.e. general ledger transactions, annual financial statements) and supporting documentation (i.e. purchase orders, delivery notes, invoices, contracts, bank statements, asset usage logbook, depreciation policy, etc.).*

4. Records for unit costs set by the Commission

For unit costs, the beneficiaries must keep:

- detailed records and other supporting documents to prove the number of units declared.

It is NOT necessary to keep records on the actual costs incurred.

The Commission/Agency may access the accounting records, but will reject costs only if the number of units declared is incorrect. (The actual costs of the work are not relevant).

If the Commission/Agency detects an irregularity or fraud in the action's implementation, it may reduce the grant.

5. Records for unit costs calculated in accordance with the beneficiary's usual cost accounting practices

For costs declared in accordance with their usual cost accounting practices (**average personnel** costs and costs of **internally invoiced goods and services**), the beneficiaries must keep detailed records and other supporting documents to:

- show that the costs used to calculate the unit cost match the actual costs as recorded in the statutory accounts

  Examples:

  1. *For personnel costs: accounting records; financial statement extracts; labour contracts; collective labour agreements; applicable tax, labour and social security laws; pay slips; bank statements showing salary payments; classification of employees (based on experience, qualifications, salary, department, etc.).*

  2. *For internally invoiced goods and services: accounting records; financial statement extracts; time records (or other records) for the share of personnel costs included in the unit costs; invoices or contracts for maintenance costs, cleaning costs, other services, showing that the cost are directly identifiable.*

  Manual interventions into the accounting data must be traceable and documented.

- verify that the unit cost is free of ineligible cost components

  Examples:

  1. *For personnel costs: records that show that the hourly rate does not include an indirect cost component (already covered by the 25 % flat rate); records that show that the hourly rate does not include travel costs (they should be claimed under category D.1 'travel').*

  2. *For internally invoiced goods and services: evidence that shows that there is no profit/margin/mark-up included in the internally invoiced goods and services (e.g. different rates: one for billing the activity, with mark-up, and another one for internal costing, free of any mark-up); lists of accounts/cost centres that were excluded from the calculation of internally invoiced goods and services — because already included in the costs claimed under another budget categories (e.g. LRI costs, indirect costs, in-kind contributions, etc.).*

- assess the acceptability of budgeted and estimated elements

  Examples:

  1. *For personnel costs: records that show the method for calculating the annual salary increases (e.g. consumer price index which, according to the beneficiary's usual remuneration policy, serves as the basis for annual salary increases).*

  2. *For internally invoiced goods and services: traceable data used to determine the budgeted/ estimated elements; records on the nature and frequency of the updates of the budgeted and estimated elements; etc.*

- for personnel costs: verify the number of productive hours used to calculate the unit cost (hourly rate)

- for internally invoiced goods and services: verify that the cost items used for the calculation of the unit cost were directly linked to the production of the invoiced good or service.

Examples (not acceptable):

1. *Maintenance which goes beyond than the maintenance of the infrastructure/facilities used to produce the good/service (e.g. maintenance costs for all the beneficiary's cleanrooms; maintenance costs for an entire building, while the cleanroom used for the good/service occupies only a part of the building).*

2. *Generic supplies for which there is no evidence that they were directly linked to the infrastructure/facilities used to produce the good/service (e.g. electricity costs when there is no electricity counter or technical specifications to measure the consumption).*

By contrast, it is NOT necessary to keep records on the actual costs incurred (per person/good or service) — unless they are needed to document the usual cost accounting practices (as just described).

6. Certificate on the methodology (CoMUC)

What?

To get additional assurance, a beneficiary/linked third party may request that the Commission/Agency confirms that its cost accounting practices for personnel costs comply with the conditions set out in Article 6.2.A, by approving a certificate on its methodology (CoMUC).

Approval concerns the cost accounting practices described and certified in the certificate on the methodology.

If the Commission/Agency approves the CoMUC, it will not challenge the personnel unit costs (hourly rates) declared — unless information was concealed or fraud or corruption was used to obtain approval (or another methodology was applied).

Approval is valid for all personnel costs declared according to these cost accounting practices, including costs declared *before* the Commission/Agency approval (if the beneficiary can show that they were declared according to the approved practices).

Best practice: Beneficiaries should nevertheless keep detailed records and other supporting documents (to prove that their methodology complied with the rules, if necessary).

Approval is valid for all H2020 grants (i.e. for the beneficiary's usual cost accounting practices) and is not linked or limited to a specific grant. (It is NOT valid for FP7 grants and, conversely an FP7 certificate is NOT valid for H2020.)

When?

Beneficiaries may in principle submit their requests for approval at **any time** — before or during the grant.

Best practice: In order to ensure that the auditor has enough information to get assurance on the methodology, it is recommended to request it only *after* the first reporting period has passed.

If the beneficiary **changes its cost accounting practices**, it must obtain a new certificate and submit a new request for approval to the Commission/Agency.

⚠ If the beneficiary declares personnel costs according to the changed cost accounting practices *before* the new certificate is approved, it bears the **full risk** of non-approval and cost rejection by the Commission/Agency.

How?

The beneficiary must **submit** its certificate on the methodology to the Commission/Agency (via the following address: EC-H2020-UNIT-COST-METHODOLOGY-CERTIFICATION@ec.europa.eu). The certificate should be drawn up by an independent auditor using the template in Annex 6 of the GA (or an independent public officer, if the beneficiary is a public body).

7. Records for flat-rate costs

For flat-rate costs, the beneficiaries must:

- keep detailed records and other supporting documents to prove that the costs to which the flat rate is applied are eligible.

  Example: *For the flat rate of 25 % of indirect costs, the auditors will verify (and the beneficiaries must be able to show) that:*

  a) the actual direct costs are eligible, using the detailed records and supporting documents explained above;

  b) the following costs were excluded: subcontracting costs, the costs of resources made available by third parties not used on the beneficiary's premises and financial support to third parties from the pool of actual direct eligible costs to which the flat rate applies.

It is NOT necessary to keep records on the actual costs incurred.

8. Records for lump-sum costs

For lump-sum costs, the beneficiaries must:

- keep detailed records and other supporting documents to prove that the action tasks described in Annex 1 have been carried out in accordance with the GA.

It is NOT necessary to keep records on the actual costs incurred.

9. Records for personnel costs — Hours worked for the action

The records for personnel costs depend on whether the person worked exclusively for the action or not.

⚠ For H2020, exclusive work or not matters only for the record-keeping. It has NO impact on the calculation of the costs to be declared (— in both cases they must be calculated through an hourly rate, monthly or per full financial year, etc.; *see Article 6.2.A*).

For **persons who work exclusively for the action** (regardless if they are full-time or part-time employees), the beneficiary may either:

- sign a declaration on exclusive work for the action [ODT format] (one per reporting period), to confirm that the person worked exclusively for the action, either:

  - during the whole reporting period

  or

  - during an uninterrupted time-period, covering at least a full calendar month within the reporting period.

  Best practice: Beneficiaries should take a prudent approach and use this possibility only if it is planned that the person works exclusively on the action during a long and continuous period of time. If there are any doubts, a record of actual hours worked should be kept *(e.g. time-sheets)*.

  'Exclusive work' means that the person carried out NO OTHER activities for the beneficiary than those of the action.

  Intermittent (i.e. sporadic or random) periods of 'exclusive' dedication can NOT be subject of a declaration. If a person worked randomly for the action after an

uninterrupted time-period covered by a declaration, time-sheets are needed for the period of random work.

> ***Example:*** *The person worked for the action exclusively from 15/02 to 31/05 and then worked again in the action some days in July and October and the full month of November. The declaration will cover the period from 15/02 to 31/05 and time records must be kept for the time the person worked for the action in July, October and November.*

If a person worked under different regimes during the reporting period (exclusive and non-exclusive), the declaration may be used ONLY for a period of exclusive work. The other months must be recorded with time-sheets.

If there were several periods of exclusive work during one reporting period, the beneficiary may choose to use the declaration for the longest one (and use the monthly time-sheets for the others).

The declaration must be **dated** and **signed** by the person concerned AND her/his supervisor.

– keep **time records**.

Best practice: If the person works exclusively for the action during a *full financial year*, it is strongly recommended that the beneficiary signs the 'declaration on exclusive work for the action' (— even if the person keeps time records). In this way, the declaration can serve as evidence that the person worked for the action all her/his annual productive hours.

For **persons who do NOT work exclusively for the action**, the beneficiaries must:

– show the actual hours worked, with reliable **time records** (*i.e. time-sheets*) either on paper or in a computer-based time recording system.

Time records must be dated and signed at least monthly by the person working for the action and his/her supervisor.

If the time recording system is computer-based, the signatures may be electronic (i.e. linking the electronic identity data *(e.g. a password and user name)* to the electronic validation data, with a documented and secure process for managing user rights and an auditable log of all electronic transactions).

Time records should include, as a minimum:

- the title and number of the action, as specified in the GA
- the beneficiary's full name, as specified in the GA
- the full name, date and signature of the person working for the action
- the number of hours worked for the action in the period covered by the time record
- the supervisor's full name and signature
- a reference to the action tasks or work packages of Annex 1, to which the person has contributed by the reported working hours.

Information included in time-sheets must match records of annual leave, sick leave, other leaves and work-related travel.

A template [ODT format] for time-sheets with these minimum requirements is available. (This template is not mandatory; beneficiaries may use their own model, provided that it fulfils the minimum conditions and it contains at least the information detailed above.)

If time records are not reliable, the Commission/Agency may exceptionally accept **alternative evidence** if it proves the number of hours worked on the action with a similar (or at least satisfactory) level of assurance (assessed against generally-accepted audit standards).

⚠ The Commission/Agency has full discretion to accept or refuse the alternative evidence and there is no entitlement to it. Beneficiaries that rely on alternative evidence bear the **full risk** of refusal and rejection of costs by the Commission/Agency.

Examples of possible alternative evidence (non-exhaustive list): *travel documents proving participation in a project meeting (boarding pass, obliterated travel ticket, hotel invoice, etc.); agenda and minutes of the meeting; attendance lists; working papers; laboratory log books; professional/personal diaries; documents related to presentations; scientific publications; correspondence such as letters, notes, memos, emails; etc.*

The auditors will use the following three criteria to assess how credible the alternative evidence is:

1. Clear identification of the person concerned
2. Clear link to the project under scrutiny
3. Possibility to quantify time spent on project-related tasks.

Alternative evidence will only be accepted if these three criteria are met.

Example (acceptable alternative evidence):

A researcher submits the following email as alternative evidence: 'I hereby send you the results of the analysis of project XYZ that I have been working on for the last two weeks.'

Criterion 1 is met – the sender of the email is the person concerned

Criterion 2 is met – the project is identified as XYZ

Criterion 3 is met – the time is quantified: two weeks

Example (not acceptable alternative evidence):

A beneficiary submits the following email as alternative evidence: 'I hereby send you the results of the analysis recently carried out by my team.'

Criterion 1 is not met – it is unclear who the person concerned is; the team members and their contributions are unknown

Criterion 2 is not met: the project name is not mentioned

Criterion 3 is not met – the time is not quantified

10. Records of (linked) third parties

The beneficiaries must ensure that **linked third parties** comply with the same obligations in terms of keeping appropriate and sufficient evidence.

Example: *Linked third parties that carry out work themselves must document all their costs in the same way the beneficiaries do. However, it is the beneficiary who must keep the original financial statements and the certificates on financial statements of the linked third parties.*

The beneficiaries must also ensure that they keep appropriate and sufficient evidence related to **third parties that made in-kind contributions** and to **subcontractors**.

Examples:

1. *The beneficiaries must keep evidence of third parties' actual direct costs if there are in-kind contributions, either free of charge or against payment. Alternatively, they may ensure that the third parties keep the evidence.*

2. *The beneficiaries must keep evidence showing that subcontractors fulfilled their obligations in terms of the visibility of EU funding. Alternatively, they may ensure that the subcontractors keep this evidence.*

For **international partners,** beneficiaries must keep appropriate and sufficient evidence ONLY on scientific and technical implementation of the action. Beneficiaries are not required to prove the costs of the international partners, since the latter do not receive EU funding (*see Article 14a*).

Specific case (records of linked third parties):

Financial statements and certificates on the financial statements (CFS) — It is the beneficiary that must keep the originals of the financial statements and the certificates on the financial statements of the linked third parties.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must submit the '**deliverables**' identified in Annex 1, in accordance with the timing and conditions set out in it.

19.2 Consequences of non-compliance

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

1. Deliverables

What & When?

The coordinator must submit the deliverables identified in Annex 1, in accordance with the timing and conditions set out in that Annex.

'Deliverables' are additional outputs *(e.g. information, special report, a technical diagram brochure, list, a software milestone or other building block of the action)* that must be produced at a given moment during the action (normally not at the same time as the periodic/final reports).

'Milestones' are, by contrast, control points in the action that help to chart progress. They may correspond to the completion of a key deliverable, allowing the next phase of the work to begin or be needed at intermediary points.

The deliverables that must be produced are listed in Annex 1 of the GA.

Example: *For actions under Part III, 'Secure, clean and efficient energy' involving energy efficiency measures in buildings, the beneficiaries must deliver a 'handover certificate' at the same time as their periodic reports. This certificate must prove the actual specifications of the buildings constructed or refurbished, their surface area and address. It must be signed by a member of the consortium.*

Security obligations — If the deliverables contain **EU classified information**, the coordinator must first contact the Commission/Agency to discuss how to submit them (approval needed; *see Article 37*).

For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

For deliverables that are not in writing *(e.g. cell line or prototype)*, the beneficiaries must submit a short written description.

How?

The coordinator must upload them directly in the Participant Portal.

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The coordinator must submit to the *[Commission][Agency]* (see Article 52) 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 52).

20.2 Reporting periods

The action is divided into the following '**reporting periods**':

- RP1: from month 1 to month [X]
[- 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].]

20.3 Periodic reports — Requests for interim payments

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

The report must detail the exploitation and dissemination of the results and — if required in Annex 1 — an updated '**plan for the exploitation and dissemination of the results**';

The report must indicate the communication activities*[.][;]*

[OPTION for trans-national access to research infrastructure: *The report must detail the access activity, indicating the members of the selection panel, the selection procedure, the exact amount of access provided to the user groups, the description of their work, and information on the users (including names, nationality and home institutions);]* ***[OPTION for virtual access to research infrastructure:*** *The reports must detail the access activity, with statistics on the virtual access provided in the period, including quantity, geographical distribution of users and, whenever possible, information/statistics on scientific outcomes (publications, patents, etc.) acknowledging the use of the infrastructure;]*

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

(iv) the answers to the '**questionnaire**', covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements;

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

(i) an '**individual financial statement**' (see Annex 4) from each beneficiary *[and from each linked third party]*, for the reporting period concerned.

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

The beneficiaries *[and linked third parties]* must declare all eligible costs, even if — for actual costs, unit costs 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 *[Commission][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 linked third party]* 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 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22), and
- for the last reporting period: that all the receipts have been declared (see Article 5.3.3);

(ii) an **explanation of the use of resources** and the information on subcontracting (see Article 13) and in-kind contributions provided by third parties (see Articles 11 and 12) from each beneficiary *[and from each linked third party]*, for the reporting period concerned;

(iii) ***[OPTION 1 if the JRC is a beneficiary:*** *information on the amount of each interim payment and payment of the balance to be paid by the [Commission][Agency] to the Joint Research Centre (JRC);****][OPTION 2:*** *not applicable;****]***

(iv) a '**periodic summary financial statement**', 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**.

20.4 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 exploitation and dissemination;

(ii) the conclusions on the action, and

(iii) the socio-economic impact of the action;

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

(i) a '**final summary financial statement**' 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** and

(ii) a '**certificate on the financial statements**' (drawn up in accordance with Annex 5) for each beneficiary *[and for each linked third party]*, if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Article 6.2).

20.5 Information on cumulative expenditure incurred

[OPTION 1 for grants above EUR 5 million with reporting periods beyond 18 months[39]: *In addition to the reporting requirements set out above (Article 20.1 to 20.3), the coordinator must inform the [Commission][Agency] by [31 December][30 November] each year of the cumulative expenditure incurred by the beneficiaries from the starting 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 2 : *Not applicable**]***

20.6 Currency for financial statements and conversion into euro

Financial statements must be drafted in euro.

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

20.7 Language of reports

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

20.8 Consequences of non-compliance

If the reports submitted do not comply with this Article, the *[Commission][Agency]* may suspend the payment deadline (see Article 47) 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 the *[Commission][Agency]* may terminate the Agreement (see Article 50) or apply any of the other measures described in Chapter 6.

[39] 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.

1. Reports

What & When?

In order to receive payments, the beneficiaries (and their linked third parties) must report on the (technical and financial) implementation of the action (reporting).

> These reports must be **distinguished** from **deliverables** (that are part of Annex 1; see Article 19) and milestones (that may be part of Annex 1, but are normally neither covered by Article 19 nor by Article 20).

The coordinator must submit both:

- a **periodic report** after the end of each reporting period (including the last one) and
- a **final report** at the end of the action.

Each report should be seen as a single package, composed of several parts, i.e.:

- a (periodic or final) **technical report**

  The periodic technical report includes an explanation of work carried out, an overview of progress, a publishable summary and a questionnaire.

  The final technical report is a publishable summary of the entire action (describing the overview of the results and their exploitation and dissemination, the conclusions on the action and its socio-economic impact).

- a (periodic or final) **financial report**.

  The periodic financial report includes the individual financial statements, an explanation of the use of resources and the periodic summary financial statement.

  The final financial report consists of the final summary financial statement that is automatically generated by the IT system. In some cases (and for some beneficiaries/linked third parties) it must be accompanied by a certificate on the financial statements (CFS; one certificate per beneficiary/linked third party).

  The financial reports also contain the requests for payment (necessary for any payment other than the pre-financing payment).

The periodic report for the *last* reporting period covers only the last period, while the final report must give an overview of the action's results over its entire duration.

Costs related to reporting may be eligible (*see Article 6.2.D.3*).

If the coordinator **breaches** its **obligation** to submit the reports, the Commission/Agency may suspend the payment deadline and — if not remedied after a written reminder — terminate the GA or take any of the other Chapter 6 measures *(e.g. cost rejection, grant reduction, recovery of payments already made, etc.; see Articles 42-44, 47-50).*

> The GA will not be terminated if the breach concerns the last reporting period/final report (because the action duration is already over).

How?

The report(s) must be **prepared** by the **coordinator** and the **beneficiaries together** (directly in the Participant Portal Continuous and Periodic Reporting Modules).

List of documents for the periodic reports:

- explanation of the work carried out (periodic reporting - part B technical report)
- overview of the progress (periodic reporting - part B technical report)
- updated plan for the exploitation and dissemination of results (if necessary) (periodic reporting - part B technical report)
- summary for publication (continuous reporting)
- answers to the questionnaire (continuous reporting)
- individual financial statements for each beneficiary and linked party (periodic reporting - financial report)
- explanation of the use of resources (periodic reporting - financial report)
- summary financial statement (generated automatically by the IT system)
- information on amounts to be paid to the Joint Research Centre (JRC) (if necessary).

List of documents for the final report:

- final summary for publication (generated automatically by the IT system)
- final summary financial statement (generated automatically by the IT system)
- certificates on the financial statements (CFS) (if necessary).

Generally, they can be **prepared together** (i.e. by several users from different beneficiaries), via the Participant Portal Continuous and Periodic Reporting Modules. The parts in the **continuous reporting** can be filled out at any moment in time (continuously open) and are then automatically added into the periodic or final report by the IT system *(part A of the technical report with the questionnaire and the summary for publication; consolidated financial statement*). Other parts are opened only at **periodic reporting** *(part B of the technical report, individual financial statements, explanation of the use of resources)*. Data is cross-linked to avoid duplication of data input *(e.g. the financial statement and the explanation on the use of resources are linked: for each cost declared in the financial statement, a box will pop up asking the beneficiary to give an explanation of the cost, link it to the relevant work package(s) and justify the expense, if necessary; the final report is completely automatized: assembled on the basis of elements from the periodic report).*

Individual financial statements must be filled out by each beneficiary (individually), and then signed and formally submitted to the coordinator (directly in the Participant Portal).

This includes the **coordinator**, who must also submit the individual financial statement for itself.

For **linked third parties**, the financial statements must be filled out and submitted by their beneficiary (since the linked third parties cannot sign them in the IT system).

Before submission, the beneficiary must complete the data for the linked third party (based on the information it received from the linked third party). The beneficiary then prints the financial statement and sends it to the linked third party, for signature (*on paper*) and return (by registered post with proof of delivery). The beneficiary must ensure that the data encoded is correct (i.e. identical to the signed paper version).

⚠ **Record-keeping —** The beneficiary must keep the original of the linked third party in its files *(see Article 18.1.2)*.

If a beneficiary cannot submit its individual financial statement on time, the report can be **submitted without this financial statement**. The costs will be considered zero

for this reporting period, but the beneficiary can declare its costs with the next financial report (for the next reporting period).

The coordinator will be asked to confirm the non-submission, when submitting the report.

If a beneficiary fails to submit its financial statement for the *last* reporting period, the Commission/Agency may suspend the payment deadline *(see Article 47)*.

The **certificates on the financial statements (CFS)** must be submitted (by the coordinator) as scanned copy (PDF) together with the financial statement for the last reporting period of the beneficiary concerned.

⚠ **Record-keeping —** The beneficiary must keep the originals for itself and its linked third parties in its files *(see Article 18.1.2)*.

When all parts are ready, the report(s) are assembled automatically by the IT system and must be **submitted** by the coordinator (as a single package; **single submission**).

When a report is submitted, the other beneficiaries are automatically informed by the system.

If the Commission/Agency considers the report **incomplete** or not in compliance with the conditions of this Article, it will suspend the payment deadline *(see Article 47)*.

In this case, the Commission/Agency will send back the report to the coordinator, as a single package, together with a notification letter that explains the reasons and requests modifications and/or clarification(s) (**suspension of the payment deadline**). The coordinator (CoCo) must then re-submit the corrected report, as a single package, within the deadline specified (**single re-submission**).

The re-submission re-starts the payment deadline (remaining time, taking account of the time used before suspension).

⚠ **Adjustments of financial statements (exceptional) —** If the beneficiaries notice a mistake *(e.g. incorrect accounting information; error in the calculation; etc)*, they can make an adjustment (positive or negative) in the following reporting period to the financial statements for any previous reporting period.

Example: *An internal audit on the annual accounts of the beneficiary finds later errors in the accounting information used to calculate the hourly rates.*

Otherwise, costs that have already been declared can normally NOT be adjusted/changed *(e.g. to take into account of a different hourly rate after the closure of the financial year)*.

2. Reporting periods

Each action is divided into reporting periods.

The length of the reporting periods is set out in the GA. As a general rule, reporting periods last 18 months.

The number of reporting periods is also set out in the GA, and depends on the action duration. Normally it is determined as follows:

Duration in months	Max. number of periods
1 to 18	1

19 to 36	2
37 to 54	3
55 to 72	4
73 to 90	5

3. Periodic technical report: Explanation of the work carried out — Overview of the progress — Summary for publication — Questionnaire

The **explanation of the work carried out** and the **overview of the progress** should show how the action is being implemented and what has already been achieved (as compared to the objectives, milestones and deliverables described in Annex 1).

The coordinator must check if all deliverables due for the period have been submitted. If work planned was not carried out, the beneficiaries must explain why.

The overview of the progress must also describe how achieved results are exploited and disseminated and include an updated **plan for the exploitation and dissemination of the results** (if such a plan is foreseen in Annex 1).

3.0 For grants signed after GA version 3.0, the overview of the progress must also indicate the communication activities carried out by the consortium *(see also Article 38.1).*

> ⚠ **Security obligations** — Technical reports may NOT contain any information that has been **EU-classified** in Annex 1 of the GA *(see Article 37).*
>
> ℹ For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

The **summary** must give a brief description of the action, presenting its objectives and the results achieved (in an easy-to-read way, understandable for a non-specialist audience).

The summary must be **fit for publication**, so that the Commission/Agency can publish it on its website right away.

If needed, the Commission/Agency may make changes to the summary and publish it (after having given the coordinator the opportunity to comment).

The coordinator must ensure that none of the material submitted for publication includes confidential (or EU-classified) information.

For the last reporting period: The summary should present an overview of the results, their exploitation and dissemination, the action's conclusions and its socio-economic impact (because it will be directly re-used for the final report).

The **questionnaire** must be filled out to provide the Commission/Agency with regular up-to-date information for monitoring the action (and ultimately the H2020 Programme).

The questionnaire consists in structured information on:

- performance indicators (defined in Annex II to the H2020 Specific Programme)
- information to monitor the implementation of H2020 on cross–cutting issues *(see Annex III to the Specific Programme)* and to assess the progress of Horizon 2020 against the objectives defined for the 'societal challenges' *(see Article 3 and Annex I to the Specific Programme)*.

It is designed in a modular way, consisting as much as possible of structured questions, by topic *(e.g. publications, patents, innovation, etc.)*.

4. Periodic financial report: Individual financial statements — Explanation of the use of resources — Summary financial statement

The **individual financial statements** (see Annex 4) must contain all costs that:

- were incurred by the beneficiary/linked third parties during the reporting period

AND

- fulfil the eligibility conditions set out in Article 6.

⚠ Beneficiaries/linked third parties should declare ALL their eligible costs — even if they are above the estimated budget in Annex 2 (**cost overruns**). The grant will be capped at the maximum grant amount, but cost overruns may turn out useful, if the Commission/Agency should reject some of the costs (at payment or later on).

Beneficiaries may declare costs incurred during a previous reporting period, if they were not declared before.

The costs of linked third parties must NOT be included in the beneficiary's financial statements; linked third parties must fill out their own financial statements.

For the last reporting period, beneficiaries also have to declare the receipts for the action *(see Article 5.3.3)*.

The **explanation of the use of resources** must be consistent with the costs declared in the financial statement per beneficiary.

The **summary financial statement** is generated automatically by the IT system (with consolidated data from all individual financial statements for all beneficiaries and linked third parties, for the reporting period).

5. Final technical report: Summary for publication

The final technical report is a **summary for publication** that should present an overview of the results, their exploitation and dissemination, the action's conclusions and its socio-economic impact. It will be generated automatically by the IT system (on the basis of the summary for publication of the last reporting period).

6. Final financial report: Final summary financial statement — Certificates on the financial statements (CFS)

The **final summary financial statement** is automatically generated by the IT system (consolidating the data from all individual financial statements for all beneficiaries and linked third parties, for all reporting periods).

The final summary financial statement will be the basis for calculating the payment of the balance *(see Article 21.4)*.

Some beneficiaries/linked third parties must submit a **certificate on the financial statement (CFS)**.

Such a certificate is needed if the beneficiary/linked third party requests a total financial contribution of EUR 325 000 (or more) as reimbursement for actual costs and unit costs calculated according to its usual accounting practices (average personnel costs and costs for internally invoiced goods and services).

This means that costs based on lump sums, flat-rates (*e.g. indirect costs*) or unit costs (other than those for personnel costs and costs for internally invoiced goods and services calculated according to the beneficiary's usual cost accounting practices) are NOT counted for the EUR 325 000 threshold (and do not need to be covered by the certificate).

Example:

A is a beneficiary in an action which declared the following total eligible costs for the action:

- *personnel costs according to usual accounting practices = EUR 250 000*
- *subcontracting costs = EUR 40 000*
- *depreciation costs of equipment used to carry out the action = EUR 60 000*
- *indirect costs (25 % flat rate) = EUR 77 500*
- *total eligible costs claimed by A = EUR 427 500*

The reimbursement rate is 100%.

As the amount of eligible actual costs and personnel costs according to usual accounting practices incurred by A (and hence the requested financial contribution) is higher than EUR 325 000, A must submit a CFS for the following costs:

Type of cost	*Direct personnel costs*	*Subcontracting costs*	*Other direct costs*	*Indirect costs*	*Total costs covered by the CFS*
Costs covered by the CFS	*250 000*	*40 000*	*60 000*	*0*	*350 000*

If a certificate is required, all costs declared as actual costs or unit costs calculated according to usual accounting practices must be covered by the certificate. Incomplete certificates will be returned for correction.

However, costs previously audited by the Commission/Agency do not have to be covered again by the certificate.

Example:

A beneficiary participates in an action with three reporting periods. During the second reporting period the Commission's auditors carry out an audit of the costs incurred by the beneficiary in the first reporting period. At the end of the action, the beneficiary requests a total contribution of EUR 425 000 and has to submit a CFS with the final reports. In this case, the CFS may exclude the costs of the first reporting period (which were already covered by the Commission audit).

Linked third parties must submit a certificate if it reaches (on its own, without its beneficiary) the EUR 325 000 threshold.

Certificates submitted before the EUR 325 000 threshold is reached will be rejected by the Commission/Agency.

Beneficiaries/linked third parties may submit either **one certificate per reporting period** or a **single CFS for** the **whole action**.

The certificate(s) may be submitted ONLY **with** the ***final*** **financial report**. Certificates submitted at any other moment will NOT be accepted (and costs incurred for them will be considered ineligible, because not necessary).

Costs for partial certificates (i.e. one certificate per reporting period) will be accepted ONLY in the last reporting period and ONLY if:

- a CFS is mandatory (i.e. the threshold is reached at the end of the action) and

– the total costs of the partial certificates is similar to the cost that would have been incurred for a single certificate.

The certificate must be issued by an **external auditor**, using the template in Annex 5 of the GA.

Only qualified auditors may issue a certificate.

'Qualified' means qualified in accordance with national legislation implementing Directive 2006/43/EC[40] (or any EU legislation that replaces this Directive).

The auditor must certify that the costs declared in the financial statement are accurately recorded in the beneficiary's accounting system and eligible and that all receipts have been declared.

If the auditor cannot confirm (for any reason), s/he must explain this in detail in the certificate. The Commission/Agency will consider the explanation in light of the facts provided by the auditor, and decide on steps to take.

Specific cases (certificates on the financial statements):

Public bodies — For public bodies, the certificate may be issued by an independent public officer with formal competence to audit the beneficiary/linked third party (instead of by an external auditor).

International organisations — For international organisations, it can be an internal or external auditor that is appointed in accordance with the internal financial regulations and procedures of the organisation.

Beneficiaries/linked third parties from a third country — Beneficiaries/linked third parties established in a non-EU country must provide a certificate that complies with national regulations in the field. Auditors qualified in the EU may provide certificates for beneficiaries established in non-EU countries, if they are familiar with the relevant national regulations (national accounting rules) and comply with them when preparing the certification.

7. Information on cumulative expenditure incurred

This option will be inserted in the GA for grants above EUR 5 million, for which pre-financing is paid and where the reporting period for interim payments or payment of the balance exceeds 18 months.

A template is available and must be submitted via the Participant Portal Continuous Reporting Module.

8. Currency for financial statements and conversion into euro

Beneficiaries (and linked third parties) must always use euros, to report costs in their financial statements.

The rules on conversion (of costs incurred in other currencies into euros) are as follows:

– for beneficiaries/linked third parties **with accounting records in euros**: conversion of costs according to their usual accounting practices

– for beneficiaries/linked third parties **with accounting records in a currency other than the euro**: conversion of costs recorded in their accounts by one of the following:

[40] 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 (OJ L 157, 9.6.2006, p. 87).

– daily euro exchange rate is published in the C series of the *Official Journal of the European Union* for the currency in question: using the average of the daily exchange rates published over the corresponding reporting period.

To calculate this rate, the beneficiaries may use the editable charts on the ECB website[41].

How to calculate the rate on the ECB website:

Step 1 — Go to the ECB website.

Step 2 — Click on the chart icon [ ] for the currency.

Step 3 — Choose the 'HTML5 version' which appears under the name of the currency in the top-left corner.

Step 4 — Insert the starting date of the reporting period in the field 'from' and the end date of the reporting period in the field 'to'. The average for the period will appear above the chart.

Example: *A Romanian university with accounting in New Romanian Leu (RON) is the beneficiary of a GA with one reporting period, from 24.1.2013 to 23.1.2014. The costs incurred in RON during this period are RON 500 000. The university will convert its costs into euros at the average rate of RON 4.4274 for EUR 1 (established following the steps mentioned above). The university will report costs of EUR 112 933, 10 (RON 500 000 / RON 4.4274 * EUR 1).*

– if NO daily euro exchange rate is published: using the average of the monthly accounting rates over the corresponding reporting period, using the currency converter on the Commission's website[42].

Example: *A Moldovan university with accounting in Moldovan Lei (MDL) is the beneficiary of a GA with one reporting period, from 24.01.2013 to 23.01.2014. The costs incurred in MDL during this period are MDL 500 000. The university will calculate the average of the 13 monthly exchange rates (January 2013 until January 2014) published on the Commission's website. This average rate is MDL 16.7531 for EUR 1. The university will report costs of EUR 29 845, 22 (MDL 500 000 / MDL 16.7531 * EUR 1).*

9. Language of reports

The reports must be drafted in the language of the GA (indicated at the end of the GA, next to the signatures of the parties).

[41] Available at http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html
[42] Available at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

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 20), and
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20).

21.2 Pre-financing payment — Amount — Amount retained for the Guarantee Fund

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)].

The *[Commission][Agency]* will — except if Article 48 applies — make the pre-financing payment to the coordinator within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest.

An amount of EUR [**insert amount** (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the *[Commission][Agency]* from the pre-financing payment and transferred into the '**Guarantee Fund**'

[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 [Commission][Agency] for the JRC.**]***

21.3 Interim payments — Amount — Calculation

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

The *[Commission][Agency]* will pay to the coordinator the amount due as interim payment within 90 days from receiving the periodic report (see Article 20.3), except if Articles 47 or 48 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 *[Commission][Agency]* in the following steps:

Step 1 — Application of the reimbursement rates

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

21.3.1 Step 1 — Application of the reimbursement rates

The reimbursement rate(s) (see Article 5.2) are applied to the eligible costs (actual costs, unit costs and flat-rate costs *[and lump sum costs]*; see Article 6) declared by the beneficiaries *[and the linked third parties]* (see Article 20) and approved by the *[Commission][Agency]* (see above) for the concerned reporting period.

21.3.2 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}**}**.

21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

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 44).

If the total amount of earlier payments is lower than the final grant amount, the *[Commission][Agency]* will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 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 *[Commission][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:

{final grant amount (see Article 5.3)

minus

{pre-financing and interim payments (if any) made}**}**.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the coordinator together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
    - is positive, it will be paid to the coordinator
    - is negative, it will be recovered.

The amount to be paid may however be offset — without the beneficiaries' consent — against any other amount owed by a beneficiary to the *[Agency, the]* Commission or an*[other]* 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).

21.5 Notification of amounts due

When making payments, the *[Commission][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 43 and 44.

21.6 Currency for payments

The *[Commission][Agency]* will make all payments in euro.

21.7 Payments to the coordinator — Distribution to the beneficiaries

Payments will be made to the coordinator.

Payments to the coordinator will discharge the *[Commission][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 the minimum number of beneficiaries set out in the call for proposals has acceded to the Agreement (see Article 56) and

(b) to beneficiaries that have acceded to the Agreement (see Article 56).

21.8 Bank account for payments

All payments will be made to the following bank account:

Name of bank: […]
Full name of the account holder: […]
Full account number (including bank codes): […]
[IBAN code: […]][40]

21.9 Costs of payment transfers

The cost of the payment transfers is borne as follows:

- the *[Commission][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.

21.10 Date of payment

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

21.11 Consequences of non-compliance

21.11.1 If the *[Commission][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).

Suspension of the payment deadline or payments (see Articles 47 and 48) 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.

21.11.2 If the coordinator breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement or the participation of the coordinator may be terminated (see Article 50).

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

[40] BIC or SWIFT code applies to for countries if the IBAN code does not apply.

1. Payments

The Commission/Agency will make the following payments to the coordinator:

- a **pre-financing payment** at the beginning of the action (to provide beneficiaries with cash to start working on the project and continue until the first interim payment)

  Pre-financing will NOT be paid before:

  - the GA is signed (even if the action starts prior to that)
  - 10 days before the action starting date.

  Example:

  A GA is signed by the coordinator on 30 December 2014 and by the Commission on 5 January 2015. The action starting date would normally be 1 February 2015, but the consortium has requested a fixed starting date of 1 September 2014 in its proposal, as the action is a continuation of a previous FP7 project.

  After due consideration, the fixed starting date is approved. The pre-financing must be paid by 5 February 2015 (i.e. 30 days from the entry into force of the GA).

- **interim payment(s)** to cover eligible costs incurred in the reporting periods (as many interim payments as number of reporting periods)

- the **payment of the balance** after the end of the action.

⚠ Any payment (i.e. pre-financing, interim payments and payment of the balance) may be **offset** against debts of the beneficiaries towards the Commission/Agency or an(other) executive agency — without the consent of the beneficiary concerned and up to the beneficiary's maximum EU contribution in Annex 2 *(see also Article 44)*.

All payments are subject to a **payment deadline** (i.e. the number of days within which the Commission/Agency has to pay the consortium — after having received the payment request). The deadline depends on the type of payment:

- for pre-financing: 30 days
- for interim payments and payment of the balance: 90 days *(see Article 21)*.

If there are issues with the payment request or with the costs declared which make it impossible to comply with the payment deadline, the Commission/Agency will **suspend the deadline** *(see Article 47)*.

The pre-financing payment is automatic, while for interim and final payments the Commission/Agency must first:

- analyse the technical reports and financial statements
- check the eligibility of the claimed costs
- calculate the amount to be paid
- approve the payment request and authorise the payment.

This is not an in-depth verification and therefore no guarantee for eligibility or correctness. The costs may still have to be rejected later on, if the Commission/Agency finds — in a more in-depth verification — that they are ineligible.

The payments are made **to the coordinator**; the beneficiaries are NOT paid individually.

The coordinator must distribute the amounts received to the beneficiaries — without delay *(see Article 21.7*).

How and when the payments are distributed is in principle an internal matter for the consortium.

The consortium agreement may set out, for instance, specific periods for the distribution of payments or that the distribution will be carried out in instalments (and these will not be considered 'unjustified delays', if the arrangements set out in the consortium agreement are complied with).

Similarly, the consortium agreement may provide for a distribution of the funding which is different from the costs claimed.

Also, if the coordinator does NOT comply with its obligations, this is in principle an issue to be resolved within the consortium. It is only if the coordinator is terminated that the Commission/Agency (and especially the Guarantee Fund) will intervene; *see Article 50*).

The Commission/Agency will be informed of the distribution of the payments by the coordinator:

- if it specifically requests this
- in the event of recovery at the payment of the balance *(see Article 44)*
- if the participation of one or more beneficiary is terminated *(see Article 50)*.

The Commission/Agency will **notify** the coordinator of the amount due, explaining which costs have been accepted and which have been rejected (if applicable; see *Articles 42, 43 and 44*).

2. Amount of the pre-financing payment

There is no standard amount (or percentage) for the pre-financing payment; the **amount** is fixed in each GA.

Normally it will be (depending on the availability of EU budget credits) **100 %** of the **average EU funding per period** (i.e. maximum grant amount set out in Article 5.1 / number of periods) for actions with at least two reporting periods. It will be however less for actions with only one reporting period, since 100 % would mean the totality of the grant amount.

At the moment of the pre-financing, an amount that corresponds to **5 %** of the maximum grant amount *(see Article 5.1)* is **deducted** from the pre-financing payment and transferred to the **Guarantee Fund**.

Example:

Maximum grant amount: EUR 1 000 000 with 100 % reimbursement rate

Pre-financing: EUR 333 334 of which:

EUR 283 334 transferred to the consortium (coordinator)

EUR 50 000 kept by the Commission for the Guarantee Fund.

For the Commission's Joint Research Centre (JRC), the Commission/Agency keeps the share of the pre-financing (based on the estimated budget of the Annex 2 in proportion of JRC weight in the total grant) and does not pay it out to the coordinator.

Example:

Four beneficiaries: A, B, C and JRC, with a maximum grant amount of EUR 1 000 000.

Estimated budget by beneficiary (Annex 2): A: EUR 300 000; B: EUR 250 000; C: EUR 300 000; JRC: EUR 150 000

Pre-financing: EUR 400 000, of which EUR 50 000 (5% of maximum grant amount) kept for the Guarantee Fund and EUR 350 000 transferred to the consortium.

JRC share of grant: 15 % (150000/1 000 000)

JRC share of pre-financing (kept by the Commission/Agency): 15 % of 350 000 = EUR 52 500

Pre-financing payment to coordinator for beneficiaries A, B, C: EUR 350 000 - EUR 52 500 = EUR 297 500

Pre-financing funds remain **EU property** until the payment of the balance — when they are cleared against the eligible costs accepted by the Commission/Agency.

3. Amount of interim payments

The amount of the interim payments will be calculated by the Commission/Agency (on the basis of the costs declared in the financial statement).

How to calculate interim payments:

Calculation of interim payments

Step 1 — Application of reimbursement rates to eligible costs approved by the Commission/Agency

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

amount of the interim payment

Step 1 — **Rejection of ineligible costs & application of the reimbursement rate(s)**

Ineligible costs (i.e. costs that do not comply with one or more eligibility conditions; *see Article 6*) will be **rejected** (i.e. not approved).

If, for innovation actions, there are different **reimbursement rates** for different beneficiaries, the Commission/Agency will apply the reimbursement rate for each beneficiary to the costs it has approved for that beneficiary.

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

The interim payment is limited to 90 % of the maximum grant amount minus the pre-financing

Example for calculating interim payments:

Grant with three beneficiaries (A, B and C) and three reporting periods.

Maximum grant amount: EUR 1 000 000 and 100% reimbursement rate.

Pre-financing of EUR 333 334.

Costs declared by the consortium at end of the first reporting period: EUR 500 000 (direct costs) + EUR 125 000 (25% flat rate for indirect costs) = € 625 000.

After checking the reports, the Commission finds that EUR 20 000 of the direct costs claimed by beneficiary A and EUR 12 000 of those claimed by beneficiary B are not eligible and therefore rejects them. (The Commission rejects EUR 32 000 direct costs + EUR 8 000 flat rate for indirect costs = EUR 40 000).

Total costs accepted by the Commission at the end of the first period: EUR 585 000

Step 1: application of reimbursement rate: 100% = EUR 585 000

Step 2: 90% limit of the maximum grant amount for pre-financing and interim payments = EUR 900 000

1st interim payment to the coordinator is EUR (900 000 – 333 334) = 566 666.

Total accepted eligible costs for 2nd interim period: EUR 162 500

2nd interim payment: EUR 0 (the 90% limit has already been reached in the first period).

4. Amount of the payment of the balance

The **amount** of the payment of the balance depends on the overall financial situation of the action, after calculation of the final grant amount *(see Article 5.3)*:

- if the final grant amount is *higher* than the payments already made, the balance will take the form of a **payment**
- if the final grant amount is *lower* than the payments made, the balance will take the form of a **recovery**.

Examples for calculating the payment of the balance:

Maximum grant amount: EUR 1 000 000 with 100% reimbursement rate and three reporting periods.

Pre-financing of EUR 333 334 (of which EUR 50 000 kept from the pre-financing for the Guarantee Fund).

Limit for pre-financing and interim payments: 90% of the maximum grant amount: EUR 900 000.

Total eligible costs accepted for 1st interim period: EUR 570 000;

1st interim payment: EUR 566 666 (the 90% limit is reached).

Total eligible costs accepted for 2nd interim period: EUR 162 500.

2nd interim payment: EUR 0 (the 90 % limit has already been reached in the first period).

Case 1: *Total eligible costs claimed and accepted for the last reporting period: EUR 50 000.*

Final grant amount: EUR 750 000.

*Payment of the balance takes the form of a **recovery** as the payments made by the Commission are (EUR 900 000 – EUR 750 000) = EUR 150 000 higher than the final grant amount.*

The amount of EUR 150 000 will be recovered as follows:

- *EUR 50 000 from the Guarantee Fund and*
- *EUR 100 000 from the coordinator (see procedure in Article 44.1.2).*

Case 2: *Total eligible costs accepted for the last reporting period: EUR 312 500.*

Total eligible costs accepted for the action: EUR 570 000 + EUR 162 500 + EUR 312 500 = EUR 1 045 000.

Final grant amount: EUR 1 000 000 (maximum grant amount)

Balance to be paid: EUR 1 000 000 (final grant amount) - EUR 900 000 (payments already made, of which EUR 50 000 transferred from the first pre-financing to the Guarantee Fund) = EUR 100 000.

*EUR 150 000 will be **paid** to the coordinator as follows:*

- *EUR 100 000 directly by the Commission as payment of the balance; and*
- *EUR 50 000 corresponding to the amount retained for the Guarantee Fund and returned to the consortium.*

Case 3: *Total eligible costs accepted for the last reporting period: EUR 155 000*

Total eligible costs accepted for the action: EUR 570 000 + EUR 162 500 + EUR 155 000 = EUR 887 500.

*Payment of the balance takes the form of a **recovery** as the payments made by the Commission are (EUR 900 000 – EUR 887 500) = EUR 12 500 higher than the final grant amount.*

- *The Commission/Agency will recover (deduct) this amount of EUR 12 500 from the amount retained for the Guarantee Fund.*
- *The remaining EUR 37 500 retained for the Guarantee Fund will be returned to the consortium and paid to the coordinator.*

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

22.1 Checks, reviews and audits by the *[Agency and the]* Commission

22.1.1 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 17. 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.

1. Commission/Agency checks

The Commission/Agency may — at any moment and without any time-limit — check any aspect relating to the grant.

Examples:

1. *After receiving the reports (see Article 20), the Commission checks the different documents (explanation of the work carried out, overview of the progress, explanation of the use of resources, etc.), for consistency with the description and work plan of the action.*

2. *The Agency performs a plagiarism check on documents submitted by the consortium.*

3. *After receiving information about misconducts concerning a certain beneficiary that participates in EU actions, the Commission checks all the grant agreements in order to see if it needs to take action.*

4. *After the end of the action, the Commission receives a complaint by one of the beneficiaries that another beneficiary does not respect its intellectual property obligations and decides to look into this allegation.*

The checks itself are **internal**. They may however have external effects, since the Commission/Agency may have to **ask** the coordinator (or directly the beneficiaries) for **additional information** needed for the check *(see Article 17.1)* or it may take Chapter 6 measures in view of the results.

Example: *The beneficiaries did not clearly explain the allocation and use of resources in their periodic report. The Commission asks for more information by a certain date.*

The checks may also extend to third parties involved in the action (which is why beneficiaries must ensure that the Commission/Agency can exercise its rights towards contractors, subcontractors, linked third parties or third parties providing in-kind contributions, by including appropriate clauses in their contracts with them; *see Articles 10-14*).

The Commission/Agency may carry out checks using its own staff or with the assistance of external expert(s) or bodies — without asking the beneficiaries for approval before appointing them. In this case, the Commission/Agency will ensure that there is no conflict of interest by asking the expert(s) to sign a declaration.

If the check shows **ineligible costs** or serious **breach of obligations**, it may lead to cost rejection or grant reduction and, if necessary, recovery *(see Articles 42, 43 and 44)*. If a more in-depth examination is required, the Commission/Agency may start a review or audit.

22.1.2 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), compliance with the obligations under the Agreement and continued scientific or technological relevance of the action.

Reviews may be started up to two 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 10 to 16), 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.

1. Commission/Agency reviews

The Commission/Agency may — at any moment and up until 2 years after the payment of the balance — carry out a review.

Reviews normally concern mainly the technical implementation of the action (i.e. its scientific and technological implementation), but may also cover financial and budgetary aspects or compliance with other obligations under the GA and may exceptionally also concern issues related to only one specific beneficiary.

They consist in an in-depth examination (often done with the help of independent experts) of the progress of the action, and in particular:

- the degree to which the work plan has been carried out and whether all deliverables were completed
- whether the objectives are still relevant and provide scientific or industrial breakthrough potential
- how resources were planned and used in relation to the achieved progress, and if their use respected the principles of economy, efficiency and effectiveness
- the management procedures and methods of the action
- the beneficiaries' contributions and integration within the action
- the expected potential scientific, technological, economic, competitive and social impact, and plans for using and disseminating results.

For some types of actions, they may be done regularly *(e.g. for the periodic reports related to a payment, to help the Commission/Agency to properly assess the action implementation and the work carried out by the beneficiaries)*.

They may also extend to third parties involved in the action (which is why beneficiaries must ensure that the Commission/Agency can exercise its rights towards contractors, subcontractors, linked third parties or third parties providing in-kind contributions, by including appropriate clauses in their contracts with them; *see Articles 10-14*).

If the review shows **ineligible costs** or **substantial errors, irregularities or fraud** or serious **breach of obligations** (including non- or improper implementation of the action as described in Annex 1), it may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 42-44, 47-50)* and to exclusion and/or financial penalties *(see Article 45)*.

If carried out during the implementation of the action, a review may also recommend reorientations to the action.

2. Procedure

The review will be initiated by a **letter** sent to the coordinator (or, exceptionally, the beneficiary concerned) via the Participant Portal.

The letter will also mention the names of the independent experts that have been appointed (if any). The consortium may object to an expert, but only on the grounds of commercial confidentiality.

The review may include **on-the-spot visits** or a **review meeting** (on Commission/Agency premises or anywhere relevant for the action).

If there is a meeting, the invitation will indicate the documents that will be discussed, normally:

- Annex 1 (the contractual description of the action against which the assessment will be made)
- for periodic reviews: the periodic report(s) (technical and financial) for the period(s) under review (including documents related to financial/budgetary issues)
- deliverables that were due
- for final reviews: the final report and all periodic reports.

The results of the review will be recorded in a **review report**.

> The review report together with the Commission/Agency comments will be notified to the coordinator (or, exceptionally, the beneficiary concerned) for comments within 30 days (**contradictory review procedure**). (This is NOT the contradictory procedure described in Article 42. It is a separate procedure that may, if necessary, be followed by a second contradictory procedure for cost rejection, grant reduction, etc. under Articles 41 to 46.)

The Commission/Agency operational services (authorising officers) will analyse the comments received and decide on the follow-up, if any.

22.1.3 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 two 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 10 to 16), 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 *[or lump sums]*.

1. Commission/Agency audits

The Commission/Agency may — at any moment and up until 2 years after the payment of the balance — carry out an audit.

⚠ **Record-keeping —** Once an audit has started, the beneficiary must keep ALL the records and supporting documents until the audit procedure AND its follow-up (including cost rejection, grant reduction, recovery and litigation) is completed.

Example: *If the beneficiary archives the paper copies of the original supporting documentation not on its premises, the documentation must be retrieved and sent there in time for the audit fieldwork.*

Audits normally concern mainly the financial implementation of the action by a beneficiary (i.e. financial and budgetary implementation), but may also cover technical aspects or compliance with other obligations under the GA.

They consist in an in-depth examination (by professional (external or Commission/Agency) auditors and according to the generally accepted audit standards) of the implementation of the action by the beneficiary.

They may also extend to third parties involved in the action and third parties receiving financial support or a prize (which is why beneficiaries must ensure that the Commission/Agency auditors can exercise their rights towards contractors, subcontractors, linked third parties or third parties providing in-kind contributions, by including appropriate clauses in their contracts with them; *see Articles 10-15*).

Examples:

1. *The Commission/Agency will audit **linked third parties**, as if they were beneficiaries. The audit will be carried out on the premises of the third party and all communication concerning the audit will be carried out directly with the linked third party (e.g. audit initiation letter, contradictory audit procedure). However, since the financial consequences would normally have to be borne by the linked third party's beneficiary (see Article 44), the Commission/Agency will also notify the beneficiary about the launching the audit, as well as about a summary of its conclusions.*

2. *The Commission/Agency may audit **third parties providing in-kind contributions** (free of charge or against payment), in the context of an audit of a beneficiary, in order to see if the costs claimed for the in-kind contribution are eligible. The audit procedure will formally be with the beneficiary and the beneficiary will be responsible for ensuring that the auditors have access to all necessary documents and to the third party's premises, if necessary.*

3. *The Commission/Agency may audit **contractors** or **subcontractors**, in the context of an audit of a beneficiary, in order to:*

- *see if contracts/subcontracts were awarded in compliance with the requirements of the H2020 GA (ensuring best value for money or, if appropriate, the lowest price, absence of conflict of interest)*
- *see if payments made under the contract/subcontract match the costs declared by the beneficiary*
- *assess the technical work carried out by the subcontractor.*

The audit procedure will formally be with the beneficiary and the beneficiary will be responsible for ensuring that the auditors have access to all necessary documents and to carry out checks on the contractor/subcontractor's premises, if necessary. The audit will not aim to check the contractors'/subcontractors' costs or accounts, because the remuneration they get is a set price, not a reimbursement of costs (except in cases of fraud).

4. *The Commission/Agency may audit **recipients of financial support** or **prizes**, in the context of an audit of a beneficiary, in order to see whether the eligibility conditions for the costs declared by the beneficiary are met. The audit procedure will formally be with the beneficiary and the beneficiary will be responsible for ensuring that the auditors have access to all necessary documents and to the recipient's premises, if necessary. The audit will normally not aim to assess the costs incurred by the recipients (since they are not relevant for the eligibility of the beneficiary's costs) — unless Annex 1 to the GA provides that the financial support must be given as reimbursement of the actual costs of the third parties.*

If the audit shows, **ineligible costs**, **substantial errors, irregularities or fraud** or serious **breach of obligations**, it may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 42-44, 47-50)* and, in very serious cases, to exclusion and/or financial penalties *(see Article 45)*.

In some cases, findings may result in the **acceptance** of additional costs (if the beneficiary declared them).

Specific cases (audits):

Audits for periodical assessment of simplified cost forms — The Commission/Agency may also audit the accounting records of beneficiaries to obtain general information about actual costs for cost items for which it has fixed unit costs, flat-rate or lump sums (for statistical purposes or to gather data to assess the adequacy of its unit cost, flat rate or lump sum). Such audits will normally have no direct consequences for the beneficiaries that were audited; even if the actual costs turn out to be lower, this will not lead to a rejection of costs.

2. Procedure

The audit will be initiated by a **letter** sent to the beneficiary concerned (via the Participant Portal or by registered post with proof of delivery; *see Article 52*).

If the Commission/Agency uses an external audit firm, this letter will mention its name. The beneficiary may object on grounds of commercial confidentiality (together with the reasons why) and — if justified — the Commission/Agency may decide to appoint another external auditor (or, in exceptional circumstances, to carry out the audit itself).

The audit usually involves a **desk review** of the documents requested from the beneficiary and an **on-the-spot visit** (i.e. on the beneficiary's premises or on the site on which the action is being implemented). There may however also be audits that consist only in a desk review.

The auditors will request access to a wide range of records and documentation *(e.g. payslips, labour contracts, complete statutory accounts, etc.)* and will indicate how and when it must be provided (and in which format).

The beneficiary must provide the auditors with all requested information, records and supporting documents (in the format and within the deadline specified).

Example: *A hard copy list of records from the general ledger (accounting document) disclosing hundreds or thousands of transactions is impossible to process manually, therefore the auditors will normally require an electronic version.*

Objections based on data protection or confidentiality will NOT be accepted.

Where the records and documentation contain personal data, the Commission/Agency will process it in compliance with Regulation No 45/2001 and the beneficiary must inform the persons concerned about this processing *(see Article 39)*.

Confidential data will be processed in accordance with Article 36.

Failure to provide the requested information (in the requested format and within the specified deadline) will lead to the rejection of costs (and possibly other measures, such as recovery, suspension of payments, termination, administrative and financial penalties, etc.).

For on-the-spot audits, the beneficiary must allow access to its premises and ensure that all records and supporting documentation are readily available. This includes granting access to research facilities and interviewing the researchers that worked on the action.

The results of the audit will be recorded in an **audit report**.

The draft audit report will be sent to the beneficiary concerned for comments within 30 days (**contradictory audit procedure**). (This is NOT the contradictory procedure described in Article 42. It is a separate procedure that may, if necessary, be followed by a second contradictory procedure for cost rejection, grant reduction, etc. under Articles 41 to 46.)

The audit procedure will be closed (by the Commission/Agency auditors) with the **final audit report** and the **letter of audit conclusions** (LoC) — and the file will then be passed on to the Commission/Agency operational services (authorising officers) for the follow-up, if any.

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

Under Regulations No 883/2013[41] and No 2185/96[42] (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.

[41] 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).

[42] 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).

1. OLAF investigations

OLAF is the EU's anti-fraud office, responsible for investigating fraud against the EU budget.

If the Commission/Agency suspects that a beneficiary or third party involved in an action committed fraud or other illegal acts, it will inform OLAF, who may decide to investigate.

OLAF will send the outcome of the investigation to the Commission/Agency, who will then decide how to proceed.

If an OLAF investigation shows **ineligible costs**, **substantial errors, irregularities or fraud** or serious **breach of obligations**, it may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 42-44, 47-50),* to exclusion and/or financial penalties *(see Article 45),* as well as to criminal prosecution before the national authorities.

22.3 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 966/2012[43], the European Court of Auditors (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.

[43] 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).

1. ECA checks and audits

The European Court of Auditors (ECA) is the (entirely independent) external auditing body for all European institutions. As such, it may carry out audits on all recipients of EU funds (including beneficiaries, third parties involved in the action and recipients of financial support or prizes).

Depending on the outcome, the results of such an audit may be notified to the beneficiary.

If the Commission/Agency intends to reject costs on the basis of the findings of the Court of Auditors, it will inform the beneficiary and give it the possibility to make observations.

If an ECA check or audit shows **ineligible costs**, **substantial errors, irregularities or fraud** or serious **breach of obligations**, this may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 42-44, 47-50)* and to exclusion and/or financial penalties *(see Article 45)*.

22.4 Checks, reviews, audits and investigations for international organisations

***[OPTION 1 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 2:** Not applicable.]*

1. Checks, reviews, audits and investigations for international organisations

Checks, reviews, audits and investigations may also be made with regard to beneficiaries that are **international organisations (IOs)**.

⚠ Checks, reviews, audits and investigations must however respect the privileges and immunities accorded to an international organisation by its constituent documents or international law.

If there is a specific agreement concluded with the international organisation (and this agreement covers checks, reviews, audits and investigations), the Commission/Agency will apply the agreement.

***Example:** A Financial and Administrative Framework Agreement (FAFA) signed between the European Union and the international organisation.*

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

22.5.1 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 42), reduction of the grant (see Article 43), recovery of undue amounts (see Article 44) 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 55).

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.

22.5.2 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 two years after the payment of the balance of this grant.

The extension of findings may lead to the rejection of costs (see Article 42), reduction of the grant (see Article 43), recovery of undue amounts (see Article 44), suspension of payments (see Article 48), suspension of the action implementation (see Article 49) or termination (see Article 50).

22.5.3 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.

22.5.3.1 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 Article 42, on the basis of:

- the revised financial statements, if approved
- the proposed alternative correction method, if accepted

or

- the initially notified correction rate for extrapolation, if it does not receive any observations or revised financial statements, does not accept the observations or the proposed alternative correction method or does not approve the revised financial statements.

22.5.3.2 If the **findings concern substantial errors, irregularities or fraud or serious breach of obligations,** 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 Article 43, on the basis of:

- the proposed alternative flat-rate, if accepted

or

- the initially notified flat-rate, if it does not receive any observations or does not accept the observations or the proposed alternative flat-rate.

22.6 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 42).

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

1. Extension of findings (rejection and grant reduction)

If the Commission/Agency finds (in a check, review, audit or investigation) **substantial errors, irregularities or fraud** or serious **breach of obligations** which are **systemic** or **recurrent**, it may make a correction (cost rejection or grant reduction; *see Articles 42 and 43*) in:

- the grant, both for
  - reporting periods that where audited/reviewed and
  - reporting periods that were not audited/reviewed (extension of the findings)
- other H2020 grants of the beneficiary (extension of the findings).

'Recurrent' means an infringement found in several grants of the beneficiary (and therefore likely to also have occurred in the other grants of that beneficiary).

Examples (recurrent): *In several grants, the beneficiary claimed deductible VAT as an eligible cost; increased the remuneration of its personnel solely for its contracts with the Commission; did not clearly display the EU funding despite the GA's visibility requirements.*

'Systemic' means an infringement that is inherently related to the beneficiary's methodologies, accounting, management or internal control practices (and therefore, by its very nature, likely to have occurred in all other transactions of the beneficiary that are comparable/similar (i.e. governed by the same methodologies, accounting management or internal control practices, and thus part of the same 'system').

Examples (systemic): *The beneficiary does not keep records of a certain type of transactions; confidential information is insufficiently protected.*

The findings may be extended both to *on-going* grants (i.e. grants for which the payment of the balance has not yet been carried out) and to *closed* grants — up to two years after the payment of the balance.

Findings may be extended to all other EU or Euratom grants awarded under similar conditions.

⚠ Findings will normally be extended only within one programme *(e.g. findings in an H2020 audit to all H2020 grants)* but they may exceptionally also be extended to similar programmes *(e.g. if justified by the nature of the findings and the similarity of the applicable grant agreements or in case of serious irregularities or fraud).*

2. Procedure

If findings are systemic or recurrent**,** this will already have been mentioned in the audit or review report and — like the other aspects of the report — they have been subject to the contradictory audit/review procedure.

If the findings are upheld, the audit/review will be closed (by the Commission/Agency auditors/reviewers) and continue with an audit extension procedure (which is then followed by an audit/review implementation procedure).

Procedure for extension of findings and audit implementation:

Step 1 — After the end of the contradictory audit/review procedure, the Commission/Agency auditors send the letter closing the audit/review procedure (**letter of audit conclusions**), together with

- the final audit/review report
- the list of grants/reporting periods to which the audit findings will be extended
- an invitation to submit comments on the list of grants/reporting periods
- for cost rejection:
  - a request to submit revised financial statements for the grants/reporting periods on the list (via a specific form annexed to the letter of audit conclusions)
  - the proposed correction rate for extrapolation (if the beneficiary does not submit revised financial statements)
  - the conditions for external counter-audits to propose an alternative correction method *(see below)*
- for grant reduction: the proposed flat-rate for the correction.

The 'extrapolation rate' will normally correspond to the average correction rate calculated in the sample of audited grants (for the flawed cost category(ies) or even for the total costs claimed).

The 'flat-rate' will normally be based on the relative importance of the tasks improperly implemented or the seriousness of the breach of obligations — compared to the action (i.e. calculated according to the principle of proportionality).

⚠ The rate will be used if:

- the beneficiary explicitly requests it

  Example: *if the beneficiary considers that the administrative workload related to submitting revised financial statements for all the grants affected would be disproportionate or impossible and so it decides to accept the correction rate.*

- the beneficiary does not submit revised financial statements or refuses to cooperate (in time)
- the Commission/Agency cannot approve the revised financial statements (because they do not properly reflect the audit/review findings)
- the Commission/Agency cannot accept the alternative correction method proposed by the beneficiary.

Step 2 — The beneficiary has 90 days to:

- submit comments on the list of grants

  If the beneficiary considers that some (or all) of the grants on the list are not affected, it must explain why. If the explanation is not sufficient, the Commission/Agency may request additional information or clarifications.

- submit revised financial statements (free of the errors or irregularities raised).

  Example: *An audit finds that the beneficiary claimed the deductible VAT as an eligible cost and qualifies this finding as recurrent. The beneficiary agrees with the audit conclusions. It submits revised financial statements correcting the VAT for each grant affected.*

- if it does not intend to submit revised financial statement, but disagrees with the proposed correction rate, the beneficiary may:
  - for cost rejection: present an **alternative correction method** (alternative correction rate), substantiated by an audit performed by an independent external auditor

    The purpose of the independent audit can ONLY be to determine a more precise error rate for the audit/review findings of the Commission/Agency (NOT to contest those findings themselves).

  - for grant reduction: present an **alternative correction method** (alternative flat rate), substantiated by a note explaining why the alternative rate is more appropriate than the rate proposed by the Commission/Agency.

⚠ The Commission/Agency has **full discretion** to accept or refuse an alternative correction method proposed by the beneficiary and there is NO entitlement to it.

Step 3 — **Audit implementation**

If the Commission/Agency maintains its findings, it then may start rejection, reduction and, if necessary, recovery procedures *(see Articles 42 to 44)* — either on the basis of the revised financial statements, the correction rate announced or an alternative correction rate.

If the Commission/Agency **received and approved the revised financial statements**, the costs to be rejected will be calculated, for each grant, according to the revised financial statements.

If the Commission/Agency **could not approve the revised financial statements**, the costs to be rejected will be calculated, for each grant, by applying the correction rate for extrapolation.

If the Commission/Agency **received and accepted an alternative correction method**, the cost rejection/grant reduction will be calculated, for each grant, by applying the accepted alternative correction rate.

If the beneficiary did **not send any comments** or if the Commission/Agency does **not accept its comments or alternative method** proposed, the cost rejection/grant reduction will be calculated, for each grant, by applying the correction rate initially notified.

ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION

ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION

23.1 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][Euratom]* programme.

Evaluations may be started during implementation of the action and up to ***[OPTION 1 by default:** five]**[OPTION 2 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.

23.2 Consequences of non-compliance

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

1. Evaluations

The Commission/Agency may carry out **interim** and **final evaluations** of the actions for the monitoring and evaluation of the H2020 Programme implementation.

These evaluations have NO effect on the grant.

They are based on the performance indicators and issues specified in Annexes II and III to the H2020 Specific Programme. These performance indicators vary according to the specific programme's objectives. Performance indicators may be refined during the implementation of H2020.

Example:

Progress on the Specific Objective 'Leadership in enabling and industrial technologies' is evaluated on the basis of the three following indicators:

- *patent applications and patents awarded in the different enabling and industrial technologies,*
- *share of participating firms introducing innovations new to the company or the market (covering the period of the project plus three years),*
- *number of joint public-private publications.*

The necessary information will normally be taken from the questionnaire (that must be filled out as part of the periodic reports). However, the Commission/Agency may also address specific information requests to the coordinator (or the other beneficiaries).

SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS

SUBSECTION 1 GENERAL

ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY

SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS

SUBSECTION 1 GENERAL

ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY

23a.1 Obligation to take measures to implement the Commission Recommendation on the management of intellectual property in knowledge transfer activities

Beneficiaries that are universities or other public research organisations must take measures to implement the principles set out in Points 1 and 2 of the **Code of Practice** annexed to the Commission Recommendation on the management of intellectual property in knowledge transfer activities[44].

This does not change the obligations set out in Subsections 2 and 3 of this Section.

The beneficiaries must ensure that researchers and third parties involved in the action are aware of them.

23a.2 Consequences of non-compliance

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

[44] Commission Recommendation C(2008) 1329 of 10.4.2008 on the management of intellectual property in knowledge transfer activities and the Code of Practice for universities and other public research institutions attached to this recommendation.

1. Code of Practice

Beneficiaries that are universities or other public research organisations must take measures to **implement** the principles set out the **Code of Practice**[43] annexed to the EU Recommendation on the management of intellectual property in knowledge transfer activities.

This is a **best effort obligation**: If not already done so, these beneficiaries must ensure that they consider the principles set out in Points 1 and 2 of the Code of Practice in the design and implementation of their IP management and knowledge transfer policies.

The Code consists of a set of general principles aiming to improve IP management and knowledge transfer by public research organisations by promoting exploitation and dissemination of research results (— with Point 1: Principles for an internal intellectual property policy and Point 2: Principles for a knowledge transfer policy)

[43] Available at http://europa.eu/legislation_summaries/research_innovation/general_framework/ri0007_en.htm.

SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND

ARTICLE 24 — AGREEMENT ON BACKGROUND

SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND

ARTICLE 24 — AGREEMENT ON BACKGROUND

24.1 Agreement on background

The beneficiaries must identify and agree (in writing) on the background for the action ('**agreement on background**').

'**Background**' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:

(a) is held by the beneficiaries before they acceded to the Agreement, and

(b) is needed to implement the action or exploit the results.

24.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Agreement on background

The beneficiaries must identify and agree on what constitutes **background for their action** (in order to be able to give access to it).

Best practice: Although not obligatory, beneficiaries are strongly advised to agree on background *before the GA is signed*, to ensure that they have access rights to what is needed for implementing the action (and then exploiting its results).

'Background' means any tangible or intangible input — from data to know-how, information or rights — that exists *before* the GA is signed and that is needed to implement the action or to exploit its results.

Examples: *prototypes; cell lines; patents; database rights*

For intellectual property rights, it suffices that the application was filed before the GA is signed. ('Intellectual property' being understood in the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, signed at Stockholm on 14 July 1967[44]).

Background is not limited to input owned, but potentially extends to anything the beneficiaries lawfully hold *(e.g. through a licence with the right to sub-licence)*. It also extends to input held by other parts of the beneficiary's organisation.

[44] Available at http://www.wipo.int/treaties/en/convention/trtdocs_wo029.html.

Example: *if a university department participates in the action, background could potentially be anything held by the university (unless the department has its own legal personality and is the beneficiary)*

The agreement may take **any form** *(e.g. positive list, negative list)*. It may be a separate agreement or may be part of the consortium agreement *(see Article 41)*.

If access to background is subject to **legal restrictions** or limits, the beneficiary must inform the other beneficiaries — before signing the GA *(see Article 25)*.

Example: *Beneficiaries may agree to exclude specific background. Such an exclusion may be temporary (e.g. to permit the adequate protection of the background prior to providing access) or limited (e.g. to exclude only one or more specific beneficiaries). As background is by definition considered to be needed for implementation or exploitation, the impact of such exclusion on the action, particularly regarding an exclusion which does not have a temporary character, should be examined by the beneficiaries.*

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

25.1 Exercise of access rights — Waiving of access rights — No sub-licensing

To exercise access rights, this must first be requested in writing ('**request for access**').

'**Access rights**' means rights to use results or background under the terms and conditions laid down in this Agreement.

Waivers of access rights are not valid unless in writing.

Unless agreed otherwise, access rights do not include the right to sub-license.

25.2 Access rights for other beneficiaries, for implementing their own tasks under the action

The beneficiaries must give each other access — on a royalty-free basis — to background needed to implement their own tasks under the action, unless the beneficiary that holds the background has — before acceding to the Agreement —:

(a) informed the other beneficiaries that access to its background is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel), or

(b) agreed with the other beneficiaries that access would not be on a royalty-free basis.

25.3 Access rights for other beneficiaries, for exploiting their own results

The beneficiaries must give each other access — under fair and reasonable conditions — to background needed for exploiting their own results, unless the beneficiary that holds the background has — before acceding to the Agreement — informed the other beneficiaries that access to its background is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel).

'**Fair and reasonable conditions**' means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3.

25.4 Access rights for affiliated entities

Unless otherwise agreed in the consortium agreement, access to background must also be given — under fair and reasonable conditions (see above; Article 25.3) and unless it is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel) — to affiliated entities[45] established in an EU Member State or '**associated country**'[46], if this is needed to exploit the results generated by the beneficiaries to which they are affiliated.

Unless agreed otherwise (see above; Article 25.1), the affiliated entity concerned must make the request directly to the beneficiary that holds the background.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3.

25.5 Access rights for third parties

[OPTION 1 for trans-national access to research infrastructure: *The access provider must — unless it is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel) — give users royalty-free access to background needed to implement the action.*

*The access provider must inform the users as soon as possible of any restriction which might substantially affect the granting of access rights.**]***

[OPTION 2: *Not applicable**]***

25.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

[45] For the definition, , see Article 2.1(2) Rules for Participation Regulation No 1290/2013: '**affiliated entity**' means any legal entity that is:
- under the direct or indirect control of a participant, or
- under the same direct or indirect control as the participant, or
- directly or indirectly controlling a participant.

'Control' may take any of the following forms:
(a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:
(a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
(b) the legal entities concerned are owned or supervised by the same public body.

[46] For the definition, see Article 2.1(3) Rules for Participation Regulation No 1290/2013: '**associated country**' means a non EU-country (third country) which is party to an international agreement with the Union, as identified in ***[OPTION 1 for EU grants:*** *Article 7 of the H2020 Framework Programme Regulation No 1291/2013. Article 7 sets out the conditions for association of non-EU countries to Horizon 2020.****][OPTION 2 for Euratom grants:*** *Article 5 of Council Regulation (Euratom) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 – The Framework Programme for Research and Innovation ('****H2020 Euratom Research and Training Programme Regulation No 1314/2013****') (OJ L 347, 20.12.2013, p. 948 . Article 5 sets out the conditions for association of non-EU countries to Horizon 2020.]*

1. Access to background

The rules on **access to background** (including conditions and scope of access) are generally the same as for results *(see Article 31)*.

However, for background there is NO (or a more limited) obligation to give access, if there are **restrictions** or **limits** (legal or otherwise) and the beneficiary has informed the others — before acceding to the GA (or immediately when additional background is agreed on).

> ***Example:*** *A pre-existing agreement (e.g. an exclusive licence) which precludes the granting of access rights*

By contrast, if a beneficiary contracts on background later, it must ensure that it can comply with its access obligations under the GA.

Moreover, the **conditions for access** are slightly different. Access must be given:

- for the implementation of action tasks: the default rule is royalty-free

  However, if agreed by the beneficiaries before the GA is signed, for background other conditions may apply.

Example: *A beneficiary owns a novel technology needed by other beneficiaries for implementing their tasks under the action and the other beneficiaries do not bring the same level of background. In such case the beneficiaries may agree that access to the novel technology to implement the action will not be on a royalty-free basis.*

Best practice: If beneficiaries intend to deviate from the default rule, it is recommended that this is explained in detail in their proposal.

– for the exploitation of results: under fair and reasonable conditions *(see Article 31)*.

Also, there are NO **specific access rights** for EU institutions, Member States, Euratom, joint undertakings or third parties — except for the option for royalty-free access for users of research infrastructures in actions with trans-national or virtual access to research infrastructure.

Access rights are therefore normally limited to other beneficiaries and certain affiliated entities of other beneficiaries, unless otherwise agreed.

Example: *Beneficiary A used background from beneficiary B to generate its results. Beneficiary A would like to use its affiliated entity A established in a MS to exploit the results. For this, affiliated entity A needs access rights to beneficiary B's background.*

SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO RESULTS

ARTICLE 26 — OWNERSHIP OF RESULTS

SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO RESULTS

ARTICLE 26 — OWNERSHIP OF RESULTS

26.1 Ownership by the beneficiary that generates the results

Results are owned by the beneficiary that generates them.

'**Results**' means any (tangible or intangible) output of the action such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action, as well as any rights attached to it, including intellectual property rights.

26.2 Joint ownership by several beneficiaries

Two or more beneficiaries own results jointly if:

(a) they have jointly generated them and

(b) it is not possible to:

(i) establish the respective contribution of each beneficiary, or

(ii) separate them for the purpose of applying for, obtaining or maintaining their protection (see Article 27).

The joint owners must agree (in writing) on the allocation and terms of exercise of their joint ownership ('**joint ownership agreement**'), to ensure compliance with their obligations under this Agreement.

Unless otherwise agreed in the joint ownership agreement, each joint owner may grant non-exclusive licences to third parties to exploit jointly-owned results (without any right to sub-license), if the other joint owners are given:

(a) at least 45 days advance notice and

(b) fair and reasonable compensation.

Once the results have been generated, joint owners may agree (in writing) to apply another regime than joint ownership (such as, for instance, transfer to a single owner (see Article 30) with access rights for the others).

26.3 <u>Rights of third parties</u> (including personnel)

If third parties (including personnel) may claim rights to the results, the beneficiary concerned must ensure that it complies with its obligations under the Agreement.

If a third party generates results, the beneficiary concerned must obtain all necessary rights (transfer, licences or other) from the third party, in order to be able to respect its obligations as if those results were generated by the beneficiary itself.

If obtaining the rights is impossible, the beneficiary must refrain from using the third party to generate the results.

26.4 *[EU][Euratom][Agency]* ownership, to protect results

26.4.1 *[The EU][Euratom][The Agency]* may — with the consent of the beneficiary concerned — assume ownership of results to protect them, if a beneficiary intends — up to four years after the period set out in Article 3 — to disseminate its results without protecting them, except in any of the following cases:

(a) the lack of protection is because protecting the results is not possible, reasonable or justified (given the circumstances);

(b) the lack of protection is because there is a lack of potential for commercial or industrial exploitation, or

(c) the beneficiary intends to transfer the results to another beneficiary or third party established in an EU Member State or associated country, which will protect them.

Before the results are disseminated and unless any of the cases above under Points (a), (b) or (c) applies, the beneficiary must formally notify the *[Commission][Agency]* and at the same time inform it of any reasons for refusing consent. The beneficiary may refuse consent only if it can show that its legitimate interests would suffer significant harm.

If the *[Commission][Agency]* decides to assume ownership, it will formally notify the beneficiary concerned within 45 days of receiving notification.

No dissemination relating to these results may take place before the end of this period or, if the *[Commission][Agency]* takes a positive decision, until it has taken the necessary steps to protect the results.

26.4.2 *[The EU][Euratom][The Agency]* may — with the consent of the beneficiary concerned — assume ownership of results to protect them, if a beneficiary intends — up to four years after the period set out in Article 3 — to stop protecting them or not to seek an extension of protection, except in any of the following cases:

(a) the protection is stopped because of a lack of potential for commercial or industrial exploitation;

(b) an extension would not be justified given the circumstances.

A beneficiary that intends to stop protecting results or not seek an extension must — unless any of the cases above under Points (a) or (b) applies — formally notify the *[Commission][Agency]* at least 60 days before the protection lapses or its extension is no longer possible and at the same time inform it of any reasons for refusing consent. The beneficiary may refuse consent only if it can show that its legitimate interests would suffer significant harm.

If the *[Commission][Agency]* decides to assume ownership, it will formally notify the beneficiary concerned within 45 days of receiving notification.

26.5 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Ownership of results

Results belong normally to the beneficiary that produced them.

'Results' means the action's tangible outputs *(e.g. prototypes, micro-organisms)* and intangible outputs *(e.g. know-how, formulas),* as well as related rights (*e.g. patent rights and database rights*). Results do not include the outputs of activities not described in Annex 1, produced before the action starts, during its course or after it ends.

Record-keeping

Best practice: To avoid or resolve ownership disputes, beneficiaries should keep documents such as laboratory notebooks to show how and when they produced the results.

Specific cases (ownership of results):

Automatic joint ownership — If beneficiaries have jointly generated results and it is not possible to establish their respective contribution (or to separate them for protection), the beneficiaries automatically become joint owners.

In this case, the beneficiaries concerned must conclude a **joint ownership agreement** (in writing).

This agreement should cover in particular:

- specific conditions for granting licenses (if they are different from those already set out in the GA)
- criteria or principles for 'fair and reasonable compensation' to be provided to the other joint owners, if a non-exclusive license is granted to a third party (if appropriate)

  A ceiling for fair and reasonable compensation should be fixed only if the expected results can be determined with precision already before the action starts.
- how disputes will be settled *(e.g. via a mediator, applicable law, etc.)*.

Best practice: To make it easier to negotiate a joint-ownership agreement, the beneficiaries should include general principles on joint ownership already in the consortium agreement.

The joint ownership agreement will usually require further fine-tuning after the jointly-owned results are produced, in particular with regard to:

- how the ownership is divided *(e.g. equally or not)*
- if and how the joint results will be protected, including issues related to the cost of protection *(e.g. patent filing and examination fees, renewal fees, prior state-of-the-art searches, infringement actions, etc.)*, or to the sharing of revenues or profits
- how the joint results will be exploited and disseminated.

The joint owners automatically have the right under the GA to grant non-exclusive **licenses** to third parties against fair and reasonable compensation (without prior authorisation from the other joint owners) — unless otherwise provided in the joint ownership agreement.

The joint owner that intends to grant the licence must give the other joint owners at least **45 days advance notice** (together with sufficient information, to check if the proposed compensation is fair and reasonable). Such licenses may not include sub-licensing. Joint owners are free to agree on different arrangements in their joint-ownership agreement.

Joint owners may abandon joint ownership only after the jointly-owned results have been produced (new in Horizon 2020).

Example: *Once the results have been produced, the joint owners may transfer ownership to a single owner and agree on more favourable access rights (or on any other fair counterpart)*

Joint ownership by agreement — Outside the cases described above, the beneficiaries may also become joint owners if they specifically agree on it.

Example: *A beneficiary may decide that a part of its results will be owned jointly with its parent company or another third party. However, this requires a (partial) transfer of ownership, which is subject to the GA's rules on transferring ownership.*

EU/Euratom/Agency ownership to protect results — If valuable results are not protected *(e.g. if the official prosecution or renewal fees for a patent application are not paid*), the Commission/Agency may — under certain circumstances — assume ownership of the results.

2. Third parties with rights on results

The beneficiaries must ensure that they can fulfil their obligations under the GA regarding results, by making **arrangements** with any **third parties** that could claim rights to them *(e.g. subcontractors, linked third parties, international partners, employees, etc.)*.

Examples (third parties that may claim rights): *academic institutions in countries that have a kind of 'professor's privilege' system (according to which researchers may have some rights to the results of university research); employees or students who carry out work for the action (if they have rights under national law or their contract); beneficiaries for which linked third parties carry out a significant part of the work.*

Examples (arrangements): *transferring ownership to the beneficiary; granting access rights to the beneficiary with a right to sub-license.*

Specific cases (third parties with rights on results):

Joint research units (JRUs) — Where the internal arrangements of a JRU (*see Article 14*), state that any results produced by one member are owned jointly by all members, these other members are third parties that can claim rights on the results. In this case, the JRU member that is the beneficiary must ensure that it can fulfil its contractual obligations under the GA *(e.g. with regard to other beneficiaries' access rights)*.

Best practice: Beneficiaries that are members of a JRU should inform the other beneficiaries as soon as possible, to give them time to make, if needed, appropriate arrangements in the consortium agreement.

ARTICLE 27 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING

ARTICLE 27 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING

27.1 Obligation to protect the results

Each beneficiary must examine the possibility of protecting its results and must adequately protect them — for an appropriate period and with appropriate territorial coverage — if:

(a) the results can reasonably be expected to be commercially or industrially exploited and

(b) protecting them is possible, reasonable and justified (given the circumstances).

When deciding on protection, the beneficiary must consider its own legitimate interests and the legitimate interests (especially commercial) of the other beneficiaries.

27.2 *[EU][Euratom][Agency]* ownership, to protect the results

If a beneficiary intends not to protect its results, to stop protecting them or not seek an extension of protection, *[the EU][Euratom][the Agency]* may — under certain conditions (see Article 26.4) — assume ownership to ensure their (continued) protection.

27.3 Information on EU funding

Applications for protection of results (including patent applications) filed by or on behalf of a beneficiary must — unless the *[Commission][Agency]* requests or agrees otherwise or unless it is impossible — include the following:

> "The project leading to this application has received funding from the *[European Union's Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018]* under grant agreement No [number]".

27.4 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Protection of results

The beneficiaries must — for any results that can reasonably be expected to be commercially or industrially exploited —:

- examine the possibility of protecting them and
- if possible, reasonable and justified, **protect** them

even if this requires further research and development or private investment.

> ***Example (no protection necessary):*** *if protection is impossible under EU or national law or not justified (in view of the (potential) commercial or industrial exploitation, the action's objective and other relevant elements, such as potential markets and countries in which competitors are located, whether additionally protecting a part of certain technology would bring significantly broader protection or not, etc.)*

> **Best practice:** Beneficiaries should consider seeking expert advice to help them decide whether and how to protect results.

This obligation also applies to beneficiaries not receiving EU funding *(see Article 9)*.

The beneficiaries are in principle free to choose any available **form** of protection.

Standard forms of protection:

- Patent
- Trademark
- Industrial design
- Copyright
- Trade-secret
- Confidentiality

The choice of the most suitable form should be made on the basis of the specificities of the action and the type of result (i.e. the form which offers the most adequate and effective protection). Although important for commercial and industrial exploitation, IP protection is not mandatory.

Examples (choice according to the type of result):

1. *For an invention: e.g. patent, confidential information.*

2. *For the design of a technology: e.g. industrial design, copyright.*

3. *For a website: e.g. industrial design, copyright, trademark.*

In some cases, it may be advisable to protect the invention by keeping it confidential, or to postpone the filing of a patent (or other IPR) application.

Example (better not to protect for the moment): *Keeping an invention temporarily confidential could allow further development of the invention while avoiding the negative consequences associated with premature filing (earlier priority and filing dates, early publication, possible rejection due to lack of support or industrial applicability, etc.).*

Costs related to protection may be eligible *(see Article 6.2.D.3)*.

When deciding on protection, the beneficiaries must also consider the **other beneficiaries**' legitimate **interests**.

Any other beneficiary invoking legitimate interests must show how the decision would significantly harm it (especially commercially).

Example (harm): *The protection would lead to the disclosure of valuable background that is held by the other beneficiary (as a trade secret or flagged as confidential).*

Best practice: Although a beneficiary is not required to consult the other beneficiaries before deciding whether to protect a specific result it owns, beneficiaries can foresee arrangements (either in the consortium agreement or in separate agreements), to ensure that decisions on protection take due account of the interests of all beneficiaries concerned.

Protection should last for an appropriate **period** and have appropriate **territorial coverage** (in view of potential) commercial or industrial exploitation and other elements *(e.g. potential markets and countries in which potential competitors are located)*.

Patent applications should identify the **rightful inventors**. Errors (or fraud) in identifying inventors may lead to the invalidation of patents.

Example (not rightful inventor): *an entity systematically designates a head of department as one of the inventors, although it is not true.*

2. Visibility of EU funding

Applications for protection must include the reference to EU funding set out in the GA — unless (technically or legally) impossible *(see Article 38)*.

Best practice: Where possible, beneficiaries should make this reference in the language of their application (using the text of the GA language version available on the Participant Portal Reference documents page).

ARTICLE 28 — EXPLOITATION OF RESULTS

ARTICLE 28 — EXPLOITATION OF RESULTS

28.1 Obligation to exploit the results

Each beneficiary must — up to four years after the period set out in Article 3 — take measures aiming to ensure '**exploitation**' of its results (either directly or indirectly, in particular through transfer or licensing; see Article 30) by:

(a) using them in further research activities (outside the action);

(b) developing, creating or marketing a product or process;

(c) creating and providing a service, or

(d) using them in standardisation activities.

[OPTION for additional exploitation obligations if foreseen in the work programme: *In addition, the beneficiaries must — up to four years after the period set out in Article 3 — comply with the additional exploitation obligations set out in Annex 1.****]***

This does not change the security obligations in Article 37, which still apply.

28.2 Results that could contribute to European or international standards — Information on EU funding

[OPTION for results that could contribute to standards if foreseen in the work programme: *If results could reasonably be expected to contribute to European or international standards, the beneficiary concerned must — up to four years after the period set out in Article 3 — inform the [Commission][Agency].****]***

If results are incorporated in a standard, the beneficiary concerned must — unless the *[Commission][Agency]* requests or agrees otherwise or unless it is impossible — ask the standardisation body to include the following statement in (information related to) the standard:

"Results incorporated in this standard received funding from the *[European Union's Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018]* under grant agreement No [Number]".

28.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced in accordance with Article 43.

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

1. Exploitation of results

The beneficiaries must take measures aiming to ensure **exploitatio**n of their results — either by themselves (*e.g. for further research or for commercial or industrial exploitation in its own activities*) or by others (other beneficiaries or third parties, *e.g. through licensing or by transferring the ownership of results*).

⚠ This is a **best effort obligation**: The beneficiaries must be proactive and take specific measures to ensure that their results are used (to the extent possible and justified).

The obligation applies only to beneficiaries receiving EU funding *(see Article 9)*.

Where possible, the measures should be consistent with the impact expected from the action and the plan for the exploitation and dissemination of the results.

If the GA provides for **additional exploitation obligations**, these must also be fulfilled. (Such additional exploitation obligations will already be mentioned in the work programme/call.)

⚠ Additional exploitation obligations apply to ALL beneficiaries.

If the GA includes the option for **information on standardisation**, the beneficiaries must moreover inform the Commission/Agency on any results that could contribute to European or international standards.

Example: *The results are produced in an area in which standards play an important role (such as in mobile communication, diagnostics or immunological diseases).*

ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING

ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING

29.1 Obligation to disseminate results

Unless it goes against their legitimate interests, each beneficiary must — as soon as possible — '**disseminate**' its results by disclosing them to the public by appropriate means (other than those resulting from protecting or exploiting the results), including in scientific publications (in any medium).

[OPTION for additional dissemination obligations if foreseen in the work programme: *In addition, the beneficiaries must comply with the additional dissemination obligations set out in Annex 1.****]***

[OPTION for additional dissemination obligations for interoperability if foreseen in the work programme: *Moreover, the beneficiaries must — up to four years after the period set out in Article 3 — disseminate any technical specifications of the results that are needed for interoperability.****]***

[OPTION for additional dissemination obligations for cross-border interoperability if foreseen in the work programme: *Moreover, the beneficiaries must — up to four years after the period set out in Article 3 — disseminate the deliverables relating to cross-border interoperability (see Annex 1) and any results needed for cross-border interoperability (in particular common technical specifications and software components).****]***

This does not change the **obligation to protect results** in Article 27, the confidentiality obligations in Article 36, the security obligations in Article 37 or the obligations to protect personal data in Article 39, all of which still apply.

A beneficiary that intends to disseminate its results must give advance notice to the other beneficiaries of — unless agreed otherwise — at least 45 days, together with sufficient information on the results it will disseminate.

Any other beneficiary may object within — unless agreed otherwise — 30 days of receiving notification, if it can show that its legitimate interests in relation to the results or background would be significantly harmed. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard these legitimate interests.

If a beneficiary intends not to protect its results, it may — under certain conditions (see Article 26.4.1) — need to formally notify the *[Commission][Agency]* before dissemination takes place.

29.2 Open access to scientific publications

Each beneficiary must ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results.

In particular, it must:

(a) as soon as possible and at the latest on publication, deposit a machine-readable electronic copy of the published version or final peer-reviewed manuscript accepted for publication in a repository for scientific publications;

Moreover, the beneficiary must aim to deposit at the same time the research data needed to validate the results presented in the deposited scientific publications.

(b) ensure open access to the deposited publication — via the repository — at the latest:

(i) on publication, if an electronic version is available for free via the publisher, or

(ii) within six months of publication (twelve months for publications in the social sciences and humanities) in any other case.

(c) ensure open access — via the repository — to the bibliographic metadata that identify the deposited publication.

The bibliographic metadata must be in a standard format and must include all of the following:

- the terms ["European Union (EU)" and "Horizon 2020"]["Euratom" and Euratom research and training programme 2014-2018'];
- the name of the action, acronym and grant number;
- the publication date, and length of embargo period if applicable, and
- a persistent identifier.

29.3 Open access to research data

***[OPTION 1 for actions participating in the open Research Data Pilot**: Regarding the digital research data generated in the action ('**data**'), the beneficiaries must:*

(a) deposit in a research data repository and take measures to make it possible for third parties to access, mine, exploit, reproduce and disseminate — free of charge for any user — the following:

(i) the data, including associated metadata, needed to validate the results presented in scientific publications as soon as possible;

*(ii) other data, including associated metadata, as specified and within the deadlines laid down in the '**data management plan**' (see Annex 1);*

(b) provide information — via the repository — about tools and instruments at the disposal of the beneficiaries and necessary for validating the results (and — where possible — provide the tools and instruments themselves).

This does not change the obligation to protect results in Article 27, the confidentiality obligations in Article 36, the security obligations in Article 37 or the obligations to protect personal data in Article 39, all of which still apply.

*As an exception, the beneficiaries do not have to ensure open access to specific parts of their research data if the achievement of the action's main objective, as described in Annex 1, would be jeopardised by making those specific parts of the research data openly accessible. In this case, the data management plan must contain the reasons for not giving access.**]***

[OPTION 2**: Not applicable**]

29.4 <u>Information on EU funding</u> — Obligation and right to use the EU emblem

Unless the *[Commission][Agency]* requests or agrees otherwise or unless it is impossible, any dissemination of results (in any form, including electronic) must:

(a) display the EU emblem and

(b) include the following text:

"This project has received funding from the *[European Union's Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018]* under grant agreement No [Number]".

When displayed together 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 *[Commission][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.

29.5 Disclaimer excluding *[Commission][Agency]* responsibility

Any dissemination of results must indicate that it reflects only the author's view and that the *[Commission][Agency]* is not responsible for any use that may be made of the information it contains.

29.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Dissemination of results

Unless it goes against their legitimate interests, the beneficiaries must — as soon as possible (but not before a decision on their possible protection) — **disseminate** their results (i.e. make them public).

Results that are disclosed too early (i.e. before the decision on their protection) run the risk being invalidated.

Example: *If a result is disclosed (in writing (including by e-mail) or orally (e.g. at a conference) prior to filing for protection — even to a single person who is not bound by secrecy or confidentiality obligations (typically someone from an organisation outside the consortium).*

NO dissemination at all may take place, if:

- the results need to be protected as a trade secret (i.e. confidential know-how) or
- dissemination conflicts with any other obligations under the GA *(e.g. personal data protection, security obligations, etc.)*.

⚠ **Security obligations —** Dissemination may be restricted/NOT possible for results that are subject to **limited disclosure/dissemination** in Annex 1 of the GA *(see Article 37)*.

⚠ Results that contain **EU-classified information**, can be disclosed only after approval by the Commission/Agency *(see Article 37)*.

ℹ For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

The beneficiaries may choose the **form** for disseminating their results.

Standard forms of dissemination:

- website
- presentation at a scientific conference
- peer-reviewed publication

The dissemination measures should however be consistent with the 'plan for the exploitation and dissemination of the results' and proportionate to the impact expected from the action.

When deciding on dissemination, the beneficiaries must also consider the **other beneficiaries'** legitimate **interests**.

The beneficiary that intends to disseminate must give the other beneficiaries — unless otherwise agreed — at least **45 days advance notice** (together with sufficient information on the dissemination).

Any other beneficiary may **object** to dissemination — unless otherwise agreed — within **30 days** of receiving notification, if it can show that it would suffer significant harm (in relation to background or results). In this case, the results may not be disseminated — unless appropriate steps are taken to safeguard the interests at stake.

Examples (significant harm): *Disseminating the results would lead to disclosure of valuable background held by another beneficiary as a trade secret or would make protecting another beneficiary's results more difficult. Appropriate steps could include: omitting certain data or postponing dissemination until the results are protected.*

Best practice: Beneficiaries should foresee arrangements (either in the consortium agreement or in separate agreements) to ensure that decisions on dissemination take due account of the interests of all beneficiaries concerned (and yet allow for publication of results without unreasonable delay).

If the GA provides for **additional dissemination obligations**, these must also be fulfilled. Such additional dissemination obligations will already be mentioned in the work programme/call.

2. Open access to scientific publications

What?

Beneficiaries must ensure **open, free-of-charge access** to the end-user to **peer-reviewed scientific publications** relating to their results.

'Peer-reviewed publications' means publications that have been evaluated by other scholars *(e.g. articles in scientific journals)*.

⚠ Other types of scientific publications, *such as non-peer-reviewed articles as well as monographs, books, conference proceedings and 'grey literature'* (i.e. informally published material not having gone through a standard publishing process, *e.g. reports*), are not covered by the open access obligation.

Best practice: However, to ensure fuller and wider access, beneficiaries are encouraged to provide open access also to these other types of scientific publications (where possible).

Open access means ensuring that, at the very least, such publications can be **read online**, **downloaded** and **printed** — via a repository for scientific publications.

Best practice: Open access has no impact on the other terms and conditions that apply to scientific publications *(e.g. as regards use, etc)*. However, in order to increase the utility of the publication, beneficiaries are encouraged to provide additional rights such as the right to copy, distribute, search, link, crawl and mine).

A 'repository for scientific publications' is an online archive. Beneficiaries are free to choose the repository; it can be institutional, subject-based or centralised.

Best practice: The Open Access Infrastructure for Research in Europe (OpenAIRE) links existing repositories. It is not obligatory for projects to deposit in OpenAIRE itself, but it is the recommended entry point for researchers deciding on a repository. OpenAIRE also offers support services for researchers, such as the National Open Access Desks. Other useful listings are the Registry of Open Access Repositories (ROAR), the Directory of Open Access Repositories (OpenDOAR) and OAPEN (for monographs). Beneficiaries should not choose a repository with rules which could conflict with open access.

Open access does NOT imply that the beneficiaries *are obliged to publish* their results; it only sets certain requirements that must be fulfilled if they do decide to publish them.

Open access can be provided through:

a) **gold open access** (**open-access publishing**)

'Gold open access means that open access is provided immediately via the publisher when an article is published, i.e. where it is published in open access journals or in 'hybrid' journals combining subscription access and open access to individual articles.

In gold open access, the payment of publication costs (article processing charges) is shifted from readers' subscriptions to (generally one-off) payments by the author. Such author processing costs may be eligible *(see Article 6.2.D.3)* — if incurred before the end of the action. Currently, an action for dealing with such costs incurred after the end of the action in FP7 is being piloted and further action in H2020 will be considered based on the outcome.

⚠ Although gold open access already ensures access via the publisher, the beneficiaries must nevertheless also provide open access via a repository *(see below)* in order to ensure the long-term preservation and availability of the publication.

b) **green open access** (self-archiving).

'Green open access' means that the published article or the final peer-reviewed manuscript is archived by the researcher (or a representative) in an online repository. Access to the article is often — but not necessarily — delayed (H2020 embargo period between 6 and 12 months; *see below*) as some scientific publishers may wish to recoup their investment by selling subscriptions and charging pay-per-download view fees during an exclusivity period.

Best practice: Authors are encouraged to retain their copyright and grant appropriate licences to publishers.

A template for an **open access clause** addendum which can be added to **publishing agreements** is available on the Participant Portal.

How?

Open access to scientific publications involves four steps — which may or may not be taken at the same time.

Procedure for open access (scientific publications):

Step 1 — **Deposit**, in a repository for scientific publications, a machine-readable electronic copy of the published version of the **publication** (or the final peer-reviewed manuscript as accepted for publication).

This must be done as soon as possible (in some cases, the final version can be deposited before publication, *e.g. once accepted by the journal*) and at the latest on publication.

'Machine readable copy' means a format that can be used and understood by a computer; copies must be stored using text file formats that are either standardised or otherwise publicly known, so that anyone can develop new tools for working with them.

Best practice: Where possible, the article as published (in terms of layout, pagination, etc.) should be deposited.

Step 2 — Provide **open access** to the scientific **publication** — either as 'gold open access (i.e. via the publisher AND via the repository) or as 'green open access (i.e. via the repository only).

Open access must be given:

- in case of 'gold open access': at the latest on publication
- in all other cases: within 6 months (12 months for publications in the social sciences and humanities)

Step 3 — Ensure **open access**, via the repository, to certain **bibliographic metadata** that identify the publication

This is needed for visibility, traceability and monitoring.

It must be done in a standard format and include:

- the terms 'European Union (EU)' and 'Horizon 2020' or 'Euratom' and Euratom research and training programme 2014-18' (depending on the grant)
- the name of the action, acronym and grant number
- the publication date, and length of embargo period if applicable and
- a persistent identifier *(e.g. a stable digital object identifier which identifies the publication and links to an authoritative version)*.

Best practice: For ease of tracking, beneficiaries should also include the digital object identifier for 'Horizon 2020' (http://dx.doi.org/10.13039/501100007601) in the funding acknowledgement field in their metadata.

The metadata compliance of the repository can be checked using OpenAIRE.

Step 4 — Aim to **deposit** at the same time, ideally in a data repository, the **research data** needed to validate the results in the deposited publication.

This is linked to rapid evolution of the concept of 'publication' in the digital era. The underlying data needed to validate the results presented in scientific publications is now seen as a crucial part of the publication and therefore an important element of scientific best practice.

⚠ Beneficiaries do NOT have to grant open access to the deposited underlying research data — unless they are participating in the Pilot on Open Research Data *(see below)*.

ℹ For more information on why open access to scientific publications and digital research data is an important aspect of Horizon 2020, *see the Online Manual.*

3. Open access to research data (Extended Open Research Data Pilot)

What?

Beneficiaries of actions that participate in the Open Research Data Pilot must give **open, free-of-charge access** to the end-user to **digital research data** generated during the action (⚠ new in Horizon 2020).

⚠ As of the Work Programme 2017, the Open Research Data pilot has been extended to all thematic areas of Horizon 2020 (except ERC PoC actions, SME instrument Ph1 actions, ERA-NET Cofund actions that do not produce data, EJP Cofund actions, and prizes).

Participation is therefore now in principle **the default**. However, actions may **opt out** at any stage — both before signing the GA and afterwards (through an amendment; *see Article 55)* —, if:

- participation is incompatible with the obligation to protect results *(see Article 27)*

- participation is incompatible with the security obligations *(see Article 37)*
- participation is incompatible with rules on protection of personal data
- participation would mean that the project's main aim might not be achieved
- the project will not generate/collect any research data or
- there are other legitimate reasons not to take part.

'Digital research data' is information in digital form (in particular facts or numbers), collected to be examined and used as a basis for reasoning, discussion or calculation; this includes statistics, results of experiments, measurements, observations resulting from fieldwork, survey results, interview recordings and images.

Only data that is generated digitally *in the action* is concerned. Actions are encouraged to digitise any other data and provide open access to it, but they are not obliged to do so.

The pilot applies to **2 types** of digital research **data**:

- the data needed to validate the results presented in scientific publications and associated metadata (i.e. data describing the deposited research data) and
- other data and associated metadata, as specified by the beneficiaries themselves in their data management plan.

Examples: *curated data not directly attributable to a publication or raw data*

⚠ Beneficiaries may decide not to provide open access to specific datasets if this would go against other GA obligations *(e.g. to protect results or personal data)* or if the action's main objective, as described in Annex 1, would be jeopardised by giving open access to those specific datasets. In this case, the reasons must be explained in the data management plan, *see below*).

Open access to research data means taking measures to make it possible for third parties to **access, mine, exploit, reproduce** and **disseminate** data — via a research data repository.

A 'research data repository' means an online archive for research data; this can be subject-based/thematic, institutional or centralised.

Best practice: Useful listings of repositories include the Registry of Research Data Repositories (Re3data) and Databib. One key entry point for accessing and depositing related data and tools is Zenodo.

Actions participating in the pilot must draw up a **data management plan (DMP)** within the first 6 months of the project implementation.

The data management plan must support the management life-cycle for all data that will be collected, processed or generated by the action. It must cover how to make data findable, accessible, interoperable and re-usable (FAIR), including:

- the handling of data during and after the project
- what data will be collected, processed or generated
- what methodology and standards will be applied
- whether data will be shared / made open access (and how) and, if any, what data will not be shared / made open access (and why)
- how data will be curated and preserved.

The data management plan should be updated (and become more precise) as the project evolves. New versions should be created whenever important changes to the project occur *(e.g. new data sets, changes in consortium policies, etc.),* at least as part of the mid-term review (if any) and at the end of the project.

For more information on data management plans (and a template), *see the proposal forms and the Online Manual.*

Costs related to the implementation of the Open Research Data pilot *(e.g. costs for providing open access, related research data management costs, data curation and data storage costs)* may be eligible *(see Article 6.2.D.3)*.

How?

Open access to digital research data involves 3 steps:

Procedure for open access (research data):

Step 1 — **Deposit** the digital research data, preferably in a research data repository.

Step 2 — Provide **open access** by taking measures to enable users to access, mine, exploit, reproduce and disseminate the data free of charge *(e.g. for databases: by attaching an appropriate creative commons licence (CC-BY or CC0 tool) to the data; if the access/use is not subject to any rights: by indicating that no licence is needed)*.

Open access must not be given immediately; for data needed to validate the results presented in scientific publications, as soon as possible; for other data, beneficiaries are free to specify embargo periods for their data in the data management plan (as appropriate in their scientific area).

Step 3 — Provide **information**, via the repository, about **tools and instruments** for validating the results.

Where possible, the beneficiaries should provide those tools and instruments *(e.g. specialised software or software code, algorithms, analysis protocols, etc.).*

For more information on the research data pilot (and especially how actions may opt out or opt in), see *the Online Manual.*

4. Visibility of EU funding

Any dissemination of results (in any form), even when combined with other data, must include the reference to EU funding set out in the GA *(see Article 38)*.

Best practice: Where possible, beneficiaries should make this reference in the language of the dissemination activity (using the text of the GA language version available on the Participant Portal Reference documents page).

Do NOT refer to EU funding when describing outputs of activities that are not described in Annex I, i.e. outputs developed outside the action (in other words for dissemination activities which do not concern results of the action).

Combining H2020 & other EU grants — If the outputs were developed in another EU-funded action (funded not by H2020, but another EU funding programme, including Structural Funds/ESIF Funds), do NOT forget the visibility obligations under those grant agreements.

ARTICLE 30 — TRANSFER AND LICENSING OF RESULTS

ARTICLE 30 — TRANSFER AND LICENSING OF RESULTS

30.1 Transfer of ownership

Each beneficiary may transfer ownership of its results.

It must however ensure that its obligations under Articles 26.2, 26.4, 27, 28, 29, 30 and 31 also apply to the new owner and that this owner has the obligation to pass them on in any subsequent transfer.

This does not change the security obligations in Article 37, which still apply.

Unless agreed otherwise (in writing) for specifically-identified third parties or unless impossible under applicable EU and national laws on mergers and acquisitions, a beneficiary that intends to transfer ownership of results must give at least 45 days advance notice (or less if agreed in writing) to the other beneficiaries that still have (or still may request) access rights to the results. This notification must include sufficient information on the new owner to enable any beneficiary concerned to assess the effects on its access rights.

Unless agreed otherwise (in writing) for specifically-identified third parties, any other beneficiary may object within 30 days of receiving notification (or less if agreed in writing), if it can show that the transfer would adversely affect its access rights. In this case, the transfer may not take place until agreement has been reached between the beneficiaries concerned.

30.2 Granting licences

Each beneficiary may grant licences to its results (or otherwise give the right to exploit them), if:

(a) this does not impede the access rights under Article 31 and

(b) ***[OPTION 1 if additional exploitation obligations in Annex 1:*** *the beneficiary complies with its additional exploitation obligations (see Article 28.1 and Annex 1)****] [OPTION 2:*** *not applicable****]***.

In addition to Points (a) and (b), exclusive licences for results may be granted only if all the other beneficiaries concerned have waived their access rights (see Article 31.1).

This does not change the dissemination obligations in Article 29 or security obligations in Article 37, which still apply.

30.3 *[Commission][Agency]* right to object to transfers or licensing

[OPTION 1 for EU grants: *The [Commission][Agency] may — up to four years after the period set out in Article 3 — object to a transfer of ownership or the exclusive licensing of results, if:*

(a) it is to a third party established in a non-EU country not associated with Horizon 2020 and

(b) the [Commission][Agency] considers that the transfer or licence is not in line with EU interests regarding competitiveness or is inconsistent with ethical principles or security considerations.

A beneficiary that intends to transfer ownership or grant an exclusive licence must formally notify the [Commission][Agency] before the intended transfer or licensing takes place and:

- *identify the specific results concerned;*
- *describe in detail the new owner or licensee and the planned or potential exploitation of the results, and*
- *include a reasoned assessment of the likely impact of the transfer or licence on EU competitiveness and its consistency with ethical principles and security considerations.*

The [Commission][Agency] may request additional information.

If the [Commission][Agency] decides to object to a transfer or exclusive licence, it must formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information it has requested).

No transfer or licensing may take place in the following cases:

pending the [Commission][Agency] decision, within the period set out above;

if the [Commission][Agency] objects;

*until the conditions are complied with, if the [Commission][Agency] objection comes with conditions.**]***

***[OPTION 2 for Euratom grants:** The Commission may **[OPTION:**— up to four years after the period set out in Article 3 —**]** object to a transfer of ownership or the exclusive or non-exclusive licensing of results, if:*

(a) it is to a third party established in a non-EU country not associated to the Euratom research and training programme 2014-2018, and

(b) the Commission considers that the transfer or licence is not in line with the EU interests regarding competitiveness or is inconsistent with ethical principles or security considerations.

Security considerations include the defence interests of the Member States under Article 24 of the Euratom Treaty.

A beneficiary that intends to transfer ownership or grant a licence must formally notify the Commission before the intended transfer or licensing takes place and:

- *identify the specific results concerned;*
- *describe in detail the results, the new owner or licensee and the planned or potential exploitation of the results, and*
- *include a reasoned assessment of the likely impact of the transfer or licence on EU competitiveness and its consistency with ethical principles and security considerations.*

The Commission may request additional information.

If the Commission decides to object to a transfer or licence, it will formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information requested).

No transfer or licensing may take place in the following cases:

pending the Commission decision, within the period set out above;

if the Commission objects;

*until the conditions are complied with, if the Commission objection comes with conditions **]***

[OPTION 3:** Not applicable**]

30.4 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Transfers of ownership

The beneficiaries may **transfer ownership** of their results.

> ⚠ **Security obligations —** Transfer may be restricted/NOT possible for results that are subject to **limited disclosure/dissemination** in Annex 1 of the GA *(see Article 37)*.
>
> ℹ For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

The beneficiaries must however ensure that their **obligations** (regarding the results) apply to the **new owner** and that this new owner would pass them on in any subsequent transfer *(e.g. by including this in their arrangements with the new owner)*.

Obligations that must be extended to new owners:

- Joint ownership-related obligations *(see Article 26.2)*
- EU/Euratom/Agency's right to assume ownership, to protect results *(see Article 26.4)*
- Protection of results and visibility of EU funding *(see Article 27)*
- Exploitation of results and visibility of EU funding *(see Article 28)*
- Dissemination of results, open access and visibility of EU funding (see Article 29)
- Transfer and licensing of results *(see Article 30)*
- Access rights to result *(see Article 31)*.

When transferring ownership, they must also consider the **other beneficiaries'** legitimate **interests**.

The beneficiary that intends to make the transfer must give the other beneficiaries (that still have or still may request access rights) at least **45 days** (or less if agreed in writing) **advance notice** (together with sufficient information to allow them to properly assess the extent to which their access rights may be affected).

Any other beneficiary (with such access rights) may **object** to the transfer within **30 days** (or less if agreed in writing) of receiving notification, if it can show that it would adversely affect its access rights. In this case, the transfer may not take place, until the beneficiaries concerned reach an agreement.

The mere fact that the results concerned are transferred to a competitor is NOT in itself a valid reason for an objection. The beneficiary concerned must demonstrate the adverse effects on the exercise of its access rights.

Example (adverse effect): *Beneficiary A intends to transfer ownership of a new process it created during the course of an action to a competitor of beneficiary B. If beneficiary B shows that its access rights would be adversely affected by such a transfer (for instance, because the competitor has a proven track record of systematically legally challenging beneficiary B's claims), the transfer may not take place until the two beneficiaries reach an agreement.*

Specific cases (transfers of ownership of results):

Mergers & acquisitions (M&A) — If a transfer of ownership is not explicit (through an 'intended' transfer) but part of a take-over or merger of two companies, confidentiality constraints normally prevail (under M&A rules). Therefore, it may be necessary to inform the other beneficiaries only *after* the merger/acquisition took place (instead of *before*).

Specifically-identified third parties — The beneficiaries may (by prior written agreement) waive their right to object to transfers of ownership to a *specifically-identified* third party *(e.g. the mother company or an affiliate of one of them).* In this case, there is no need to inform them of such transfers in advance (and they do not have the right to object).

Before agreeing to such a global authorisation, beneficiaries should carefully consider the situation (and in particular the identity of the third party concerned), to determine if their access rights would be affected.

> ***Example:*** *For large industrial groups, it is sometimes clear from the beginning that all results produced will be transferred to another entity of the group, without being detrimental to the other beneficiaries (who agreed to the global authorisation).*

In security-related actions, transfers to third parties should only be decided on a case-by-case basis and should be handled with the greatest caution.

If the Commission/Agency has the right to object to transfers *(see point 3)*, the beneficiary must **formally notify in advance** (via the Participant Portal) any transfer to a specifically-identified third party established in a non-associated third country — and the Commission/Agency may object.

Joint research units (JRUs) — Where the internal arrangements of a JRU state that any results produced by one member are owned jointly by all members, the JRU member that is the beneficiary must ensure that it complies with the obligations under the GA on transfers (placing results under joint ownership of the JRU is a form of transfer).

Common legal structures — Common legal structures (CLS) (i.e. entities representing several other legal entities, *e.g. European Economic Interest Groupings (EEIG) or associations*) that are beneficiaries of an action may want to transfer ownership to one (or more) of their members. This is not prohibited; however the normal rules on transfers apply *(e.g. access rights have to remain available)*.

> **Best practice:** Beneficiaries that are members of a common legal structure are strongly advised to agree on specific arrangements with the other members of the CLS, in particular relating to ownership and access rights.

2. Granting licences

The beneficiaries may grant **licences** to their results.

They must however ensure that **access rights** can be exercised and that any **additional exploitation obligations** are complied with.

> *Exclusive* licences *(e.g. for commercial exploitation)* may be granted only if all other beneficiaries have waived their access rights and other access rights are preserved, *(e.g. the access rights of the EU, Member States and third parties; see Article 31)*.

3. Commission/Agency right to object to transfers or exclusive licensing

If the GA provides for this option, the Commission/Agency may **object** to transfers or *exclusive* licences (or, for Euratom grants, also *non-exclusive* licences) to third parties established in a non-associated third country.

> ⚠ As of the Work Programme 2018, the calls will normally already indicate if this option will be activated in the GAs. The option may however still be activated (without such indication):
>
> – for calls which do not fix the type of research and innovation activities ("bottom-up" calls, such as FET Open or MSCA) or
>
> – in other calls, exceptionally, if justified by the nature of the research and innovation activities or other action-related reasons.

Grounds for objection:

- Planned transfer/licence not in line with EU **competitiveness interests**

  Example: *if the transfer or licence would create a major competitive disadvantage for European companies or could make the results commercially unavailable on fair and reasonable conditions in the EU*

- Planned transfer/licence not consistent with **ethical principles**

  Example: *if the transfer or license could cause the results to be used in a way that is not in accordance with the fundamental ethical rules and principles recognised at EU and international level*

- Planned transfer/licence not consistent with **security considerations** (including, for Euratom grants, the Member States' defence interests under Article 24 of the Euratom Treaty).

  Example: *if the transfer or licence could make results considered significant from a security standpoint not readily available in the EU, or if security-sensitive results could fall into the hands of third parties that are considered a security risk*

This right does NOT apply to results generated by beneficiaries not receiving EU funding *(see Article 9)*.

The beneficiary must **formally notify** the Commission/Agency **in advance** (via the Participant Portal) of any planned transfer or exclusive licence (and, for Euratom grants, also of any non-exclusive licence).

A notification before the results are generated is allowed, if the specific results concerned (and the details of the transfer/licence) can already be identified.

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

31.1 Exercise of access rights — Waiving of access rights — No sub-licensing

The conditions set out in Article 25.1 apply.

The obligations set out in this Article do not change the security obligations in Article 37, which still apply.

31.2 Access rights for other beneficiaries, for implementing their own tasks under the action

The beneficiaries must give each other access — on a royalty-free basis — to results needed for implementing their own tasks under the action.

31.3 Access rights for other beneficiaries, for exploiting their own results

The beneficiaries must give each other — under fair and reasonable conditions (see Article 25.3) — access to results needed for exploiting their own results.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3.

31.4 Access rights of affiliated entities

Unless agreed otherwise in the consortium agreement, access to results must also be given — under fair and reasonable conditions (Article 25.3) — to affiliated entities established in an EU Member State or associated country, if this is needed for those entities to exploit the results generated by the beneficiaries to which they are affiliated.

Unless agreed otherwise (see above; Article 31.1), the affiliated entity concerned must make any such request directly to the beneficiary that owns the results.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3.

31.5 <u>Access rights for the EU institutions, bodies, offices or agencies and EU Member States</u>

***[OPTION 1 by default for EU grants**: The beneficiaries must give access to their results — on a royalty-free basis — to EU institutions, bodies, offices or agencies, for developing, implementing or monitoring EU policies or programmes.*

Such access rights are limited to non-commercial and non-competitive use.

This does not change the right to use any material, document or information received from the beneficiaries for communication and publicising activities (see Article 38.2).]

***[OPTION 2 for calls under Specific Objective 'Secure societies — Protecting freedom and security of Europe and its citizens':** The beneficiaries must give access to their results — on a royalty-free basis — to EU institutions, bodies, offices and agencies as well as EU Member States' national authorities, necessary for developing, implementing or monitoring their policies or programmes in this area.*

Such access rights are limited to non-commercial and non-competitive use.

Access is conditional on an agreement to define specific conditions ensuring that:

(a) the access will be used only for the intended purpose and

(b) appropriate confidentiality obligations are in place.

The requesting EU Member State or EU institution, body, office or agency must inform all other EU Member States of such a request.

This does not change the security obligations in Article 37, which still apply.]

***[OPTION 3 for Euratom grants:** The beneficiaries must give access to their results — on a royalty-free basis — to the European Atomic Energy Community (Euratom) and its joint undertakings, for developing, implementing and monitoring Euratom policies and programmes or for compliance with obligations assumed through international cooperation with third countries and international organisations.*

As an exception to Article 31.1, such access rights include the right to authorise third parties to use the results in public procurement and the right to sublicense and are limited to non-commercial and non-competitive use.]

31.6 Access rights for third parties

***[OPTION 1a for additional access rights for complementary grants if foreseen in the work programme**: The beneficiaries must give — under the conditions set out in Article 31.2 and 31.3 — access to their results to complementary beneficiaries[47], for the purposes of the complementary grant agreement(s) (see Article 2).]*

***[OPTION 1b for additional access rights for interoperability if foreseen in the work programme:** The beneficiaries must give third parties — up to four years after the period set out in Article 3 and [**OPTION A:** under fair and reasonable conditions (see Article 25.3)][**OPTION B:** on a royalty-free basis] — access to their results needed for interoperability.]*

***[OPTION 1c for additional access rights for cross-border interoperability if foreseen in the work programme:** The beneficiaries must give third parties — up to four years after the period set out in Article 3 and on a royalty-free basis — access to their results needed for interoperability, in particular for implementing the results in EU Member States or associated countries that are not participating in the action.*

Beneficiaries must give access to software components under an EU public licence (or compatible licences) and must comply with any additional requirements set out in in Annex 1.]

***[OPTION 1d for trans-national access to research infrastructure:** The access provider must give the users royalty-free access to the results needed to implement the action.]*

***[OPTION 2:** Not applicable]*

31.7 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

[47] **'Complementary beneficiary'** means a beneficiary of a complementary grant agreement

1. Access to results

What & When ?

The beneficiaries must provide **access to results**, if it is needed:

- by another beneficiary, for implementing action tasks or exploiting results

- by an affiliated entity of another beneficiary (established in a EU Member State or H2020 associated country), to exploit the results produced by the beneficiary to which it is affiliated — unless otherwise provided for in the consortium agreement.

There is NO definition of 'needed'. The beneficiary owning the results has to assess (on a case by case basis and taking into account the action's specificities), if the requesting beneficiary needs the access (and may refuse it, if it does not).

***Example (results needed for implementation)**: if without these results, action tasks could not be implemented, would be significantly delayed or would require significant additional financial or human resources.*

***Example (background needed for exploitation)**: if without these results, exploiting a result would be technically or legally impossible or if significant additional R&D work would have to be carried out outside of the action to develop an alternative equivalent solution.*

Best practice: To avoid conflicts, beneficiaries should agree *(e.g. in the consortium agreement)* on a common interpretation of what is needed.

The other beneficiaries may **waive their access rights**, provided that such a waiver is made in writing.

Best practice: Waivers should be made only on a case-by-case basis, once the results have been correctly identified, and should not be broader than what is actually necessary.

Examples:

***1.** If a waiver is made to allow for an exclusive licence, this waiver should not be broader than what is required for the purpose of the licence (regarding application fields, geographical coverage, etc.).*

***2.** If a waiver is made to allow for an exclusive licence, it may be wise that the beneficiaries agree that the waiver will lapse, if the license is not granted within a certain period or if the results concerned are not exploited by the licensee within a certain period.*

How?

Access rights are not automatic; they must be **requested** (in writing).

Best practice: Beneficiaries may use their internal rules to specify how to make such written requests.

It may be requested even from beneficiaries whose participation was terminated before the end of the action, under the same conditions as from active participants.

For affiliated entities (established in a EU Member State or H2020 associated country), access must be requested directly from the beneficiary owning the results. However, the beneficiary owning the results may agree to a different arrangement.

Access to results for exploitation may be requested up to one year after the period set out in Article 3 — unless the beneficiaries agreed on another time limit.

The **agreement** by the beneficiary owning the results (on the request for access) may be in any form (tacit, explicit, in writing or oral).

In case of **disagreement**, the requesting beneficiary can better substantiate its request, withdraw it or resort to the conflict resolution procedures foreseen by the consortium (*e.g. in the consortium agreement*).

If a conflict on access rights to results is likely to affect the action implementation, the beneficiaries must immediately **inform** the Commission/Agency *(see Article 17.2)*.

2. Conditions for access: Royalty free — Fair and reasonable conditions

Access must be given:

- for the implementation of action tasks: royalty-free

– for the exploitation of results: under fair and reasonable conditions

'Fair and reasonable conditions' means appropriate conditions, including possible financial terms (i.e. monetary compensation), non-financial terms or royalty-free conditions, taking into account the specific terms of the granted access.

Fair and reasonable conditions includes also royalty-free conditions (⚠ new in Horizon 2020).

Examples (monetary compensation): *a lump sum, a royalty percentage, or a combination of both.*

Examples (non-financial terms): *a requirement to grant access to technology it has, or to agree on cooperation in a different field or in a future project.*

Best practice: Beneficiaries must agree on what constitutes fair and reasonable conditions, preferably in writing.

Royalty fees paid for access may be eligible **costs** *(see Article 6.2.D.3)*.

3. Scope of access: Sublicensing/Licensing — Additional access rights — More favourable terms — Additional conditions

The access rights set out in the GA **cover** only the **access needed**.

Access rights do NOT automatically give the right to the requesting beneficiary to **sub-licence**. (If this were the case, access rights to results would be extended — without consent — to virtually any company in the world, including the beneficiary's competitors).

Sub-licensing is only allowed if the beneficiary owning the results agrees — although such agreement should not be unduly refused, if the sublicensing is necessary. In this case the sub-licensing does not have to be royalty-free (even if the access rights concerned are) and can itself be made subject to specific conditions.

Examples:

1. *A university may need the right to sub-license access to results to third parties, to make it possible to derive value from its own results.*

2. *In large industrial groups it is quite common that research is conducted by one affiliate and exploitation by one or several other affiliates. Access rights enjoyed by the 'research affiliate' but not by the 'exploitation affiliate(s)' would raise problems for them.*

Best practice: The beneficiaries should agree on the terms and conditions of the sub-licensing generally and in writing (in the consortium agreement or separately).

Examples: *In such an agreement, they could foresee that sub-licensing could apply to the results (or part of them), but not to the background; sub-licensing could apply to affiliates of (some of) the beneficiaries, but not to other third parties.*

The beneficiaries remain free to grant **licenses** (including quasi-exclusive licenses) to their own results, as long as they can guarantee that all the access rights can be exercised. They can even grant an exclusive licence, if the other beneficiaries have waived their access rights.

Beneficiaries are free to grant **additional access** rights to results, beyond the rights foreseen in the GA.

Examples: *Additional access rights for third parties (e.g. affiliated entities not established in an EU Member State or H2020 associated country).*

Best practice: Such additional provisions may be included in the consortium agreement or in a separate agreement.

Access may also be granted on **more favourable** terms *(e.g. include the right to sub-licence)* or be made subject to **additional conditions** *(e.g. appropriate confidentiality obligations)*.

Example:

The beneficiary owning the results agrees that another beneficiary may sublicense its access rights to results to its affiliated entity.

Best practice: For legal certainty, beneficiaries should to specify these terms or conditions in writing.

Once obtained, access rights may be exercised as long as agreed by the concerned beneficiaries *(e.g. until the patent expires)*.

4. Specific access rights for EU institutions, bodies, offices or agencies and EU Member States

If the GA provides for this option, EU institutions, bodies, offices or agencies and/or EU Member States have specific access rights for policy purposes.

5. Specific access rights for Euratom and its joint undertakings

If the GA provides for this option, Euratom and its joint undertakings (such as the Fusion for Energy joint undertaking) have royalty-free access, for:

- developing, implementing and monitoring Euratom policies and programmes
- complying with Euratom's obligations under international research and cooperation agreements in the field of nuclear energy.

These access rights include the right to **sub-license** *(e.g. to third parties involved in such an international agreements)* or to give the results for use in public procurement, as long as they are only used for non-commercial and non-competitive purposes.

Example:

Euratom is part of the ITER agreement and is committed to disseminating information on technological solutions developed in the context of ITER projects, and to sharing them on a non-discriminatory basis with other ITER members and ITER itself. It does this by giving ITER and ITER members royalty-free licences, including the right to sub-license, for the intellectual property produced, so that they can publicly sponsor fusion and research programmes.

6. Specific access rights for third parties

If the GA provides for this option, there are specific access rights for third parties, i.e.:

- for beneficiaries of complementary grants (depending on the case, royalty-free or under fair and reasonable conditions)
- for third parties that need it for (cross-border) interoperability (depending on the case, royalty-free or under fair and reasonable conditions)
- for users of a research infrastructure in actions with trans-national or virtual access to research infrastructure under Article 16 (royalty-free).

  These access rights are limited to the research work of the user under the grant (i.e. what he needs for his research work while he uses the research infrastructure).

SECTION 4 OTHER RIGHTS AND OBLIGATIONS

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS

SECTION 4 OTHER RIGHTS AND OBLIGATIONS

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS

32.1 Obligation to take measures to implement the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers

The beneficiaries must take all measures to implement the principles set out in the Commission Recommendation on the **European Charter** for Researchers and the **Code of Conduct** for the Recruitment of Researchers [48], in particular regarding:

- **working conditions**;
- **transparent recruitment processes based on merit**, and
- **career development**.

The beneficiaries must ensure that researchers and third parties involved in the action are aware of them.

32.2 Consequences of non-compliance

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

[48] Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).

1. European Charter and Code of Conduct for Researchers

The beneficiaries must take all measures to implement the principles set out in the European Charter for Researchers[45] and the Code of Conduct for their Recruitment.[46]

The **Charter** provides a framework for researchers' activities and career management, and includes obligations for researchers, employers and funders. The **Code of Conduct** provides for transparency to the recruitment and selection process, ensuring the equal treatment of all applicants. It includes obligations for employers and funders.

This is a **best effort obligation**: The beneficiaries must be proactive and take specific steps to address conflicts between their policies and practices and the principles set out in the Charter and Code of Conduct.

Record-keeping — Beneficiaries should keep appropriate **documentation** about the steps taken and measures put in place *(see Article 18)*.

[45] Available at http://ec.europa.eu/euraxess/index.cfm/rights/europeanCharter
[46] Available at http://ec.europa.eu/euraxess/index.cfm/rights/codeOfConduct

The Commission/Agency will verify compliance with this obligation, when monitoring the action implementation and in case of checks, reviews, audits and investigations *(see Article 22)*.

2. Recruitment, working conditions and career development — Rights for the researchers

The beneficiaries must in particular implement the General Principles and Requirements of the Charter[47] and of the Code of Conduct[48] that relate to recruitment, working conditions and career development.

For guidance, *see the 'Human Resources Strategy for Researchers' tool developed by the Commission.*

List of principles (relating to working conditions):

- Recruitment
- Transparency
- Judging merit
- Selection
- Variations in the chronological order of CVs
- Recognition of mobility experience
- Recognition of qualifications
- Seniority
- Postdoctoral appointments

According to these principles, beneficiaries should have a **clear policy for recruiting and selecting researchers**, which is publicly available and ensures that:

- all research vacancies and funding opportunities are publically advertised *(e.g. via the EURAXESS Jobs Portal[49])*
- vacancies and funding opportunities are also published in English
- vacancy announcements include a clear job description
- vacancy announcements include the requirements for the position or the funding opportunity, and the selection criteria
- there is an appropriate time period left between publication and the deadline for applications
- there are clear rules for the composition of the selection panels *(e.g. number and role of members, inclusion of experts from other (foreign) institutions, gender balance)*
- adequate feedback is given to applicants
- there is a complaint mechanism

[47] Available at http://ec.europa.eu/euraxess/index.cfm/rights/europeanCharter
[48] Available at http://ec.europa.eu/euraxess/index.cfm/rights/codeOfConduct
[49] Available at http://ec.europa.eu/euraxess/jobs

– the selection criteria adequately value mobility, qualifications and experience, including qualifications and experience obtained in non-standard or informal ways.

These principles also apply to selection procedures that do not lead to formal employment relationship *(e.g. award of a research fellowship)*.

List of principles (relating to working conditions):

- Research freedom
- Accountability
- Non-discrimination
- Working conditions
- Research environment
- Funding and salaries (in particular, adequate social security)
- Stability and permanence of employment
- Gender balance
- Intellectual Property Rights
- Complaints/appeals and
- Participation in decision-making bodies.

List of principles (relating to career development):

- Career development
- Access to research training and continuous development (independently of the researcher's status)
- Value of mobility
- Access to career advice
- Supervision
- Evaluation/appraisal systems.

ARTICLE 33 — GENDER EQUALITY

ARTICLE 33 — GENDER EQUALITY

33.1 Obligation to aim for gender equality

The beneficiaries must take all measures to promote **equal opportunities** between men and women in the implementation of the action. They must aim, to the extent possible, for a gender balance at all levels of personnel assigned to the action, including at supervisory and managerial level.

33.2 Consequences of non-compliance

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

1. Gender equality — Equal opportunities

The beneficiaries must aim — to the extent possible — for a gender balance at all levels of personnel assigned to the action, including at the supervisory and managerial levels.

This is a **best effort obligation**: The beneficiaries must:

- aim for the balanced participation of women and men in their research teams
- be proactive in ensuring gender balance among the individuals who are primarily responsible for carrying out the work (in accordance with the categories defined in the monitoring system).

Record-keeping — Beneficiaries should keep appropriate **documentation** about the steps taken and measures put in place *(see Article 18)*.

Examples (measures to promote equal opportunities): *transparency of recruitment and advancement processes, including gender-sensitive language in vacancies and job-descriptions; plans and conditions for career advancement; transparent wage classification and grading of jobs; development of leadership opportunities; gender planning and budgeting; gender impact assessment of new policies; climate surveys of institutions; adoption of family-friendly policies; promotion of mobility and dual-career couples.*

If a beneficiary cannot achieve the balanced participation of women and men in its team despite active recruitment efforts, the reasons should moreover be explained in the first **periodic technical report** and in the **final report** *(see Articles 20.3 and 20.4)*.

The Commission/Agency will verify compliance with this obligation, when monitoring the action implementation and in case of checks, reviews, audits and investigations *(see Article 22)*.

For more information on gender in research, *see the Online Manual.*

ARTICLE 34 — ETHICS AND RESEARCH INTEGRITY

ARTICLE 34 — ETHICS AND RESEARCH INTEGRITY

34.1 Obligation to comply with ethical and research integrity principles

The beneficiaries must carry out the action in compliance with:

(a) ethical principles (including the highest standards of research integrity)

and

(b) applicable international, EU and national law.

Funding will not be granted for **activities carried out outside the EU** if they are prohibited in all Member States or for activities which destroy human embryos (for example, for obtaining stem cells).

The beneficiaries must ensure that the activities under the action have an **exclusive focus on civil applications**.

The beneficiaries must ensure that the activities under the action do not:

(a) aim at human cloning for reproductive purposes;

(b) intend to modify the genetic heritage of human beings which could make such changes heritable (with the exception of research relating to cancer treatment of the gonads, which may be financed), or

(c) intend to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.

The beneficiaries must respect the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity[49].

This implies notably compliance with the following essential principles:

- honesty;
- reliability;
- objectivity;
- impartiality;
- open communication;
- duty of care;
- fairness and
- responsibility for future science generations.

This means that beneficiaries must ensure that persons carrying out research tasks:

– present their research goals and intentions in an honest and transparent manner;

[49] The European Code of Conduct for Research Integrity of ALLEA (All European Academies) and ESF (European Science Foundation) of March 2011.
http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-ethics_code-of-conduct_en.pdf

- design their research carefully and conduct it in a reliable fashion, taking its impact on society into account;
- use techniques and methodologies (including for data collection and management) that are appropriate for the field(s) concerned;
- exercise due care for the subjects of research — be they human beings, animals, the environment or cultural objects;
- ensure objectivity, accuracy and impartiality when disseminating the results;
- allow — ***[OPTION for actions participating in the Open Research Data Pilot:*** *in addition to the open access obligations under Article 29.3****]*** as much as possible and taking into account the legitimate interest of the beneficiaries — access to research data, in order to enable research to be reproduced ;
- make the necessary references to their work and that of other researchers;
- refrain from practicing any form of plagiarism, data falsification or fabrication;
- avoid double funding, conflicts of interest and misrepresentation of credentials or other research misconduct.

34.2 Activities raising ethical issues

Activities raising ethical issues must comply with the '**ethics requirements**' set out as deliverables in Annex 1.

Before the beginning of an activity raising an ethical issue, each beneficiary must have obtained:

(a) any ethics committee opinion required under national law and

(b) any notification or authorisation for activities raising ethical issues required under national and/or European law

needed for implementing the action tasks in question.

The documents must be kept on file and be submitted upon request by the coordinator to the *[Commission][Agency]* (see Article 52). If they are not in English, they must be submitted together with an English summary, which shows that the action tasks in question are covered and includes the conclusions of the committee or authority concerned (if available).

34.3 Activities involving human embryos or human embryonic stem cells

Activities involving research on human embryos or human embryonic stem cells may be carried out, in addition to Article 34.1, only if:

- they are set out in Annex 1 or
- the coordinator has obtained explicit approval (in writing) from the [Commission][Agency] (see Article 52).

34.4 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement or participation of the beneficiary may be terminated (see Article 50).

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

1. Ethical principles

The beneficiaries must carry out the action in compliance with:

- ethical principles (including the highest standards of research integrity) and
- applicable international, EU and national law.

Main ethical principles:

- Respecting human dignity and integrity
- Ensuring honesty and transparency towards research subjects and notably getting free and informed consent (as well as assent whenever relevant)
- Protecting vulnerable persons
- Ensuring privacy and confidentiality
- Promoting justice and inclusiveness
- Minimising harm and maximising benefit
- Sharing the benefits with disadvantaged populations, especially if the research is being carried out in developing countries
- Maximising animal welfare, in particular by ensuring replacement, reduction and refinement ('3Rs') in animal research
- Respecting and protecting the environment and future generations

The key sources of **EU and international law** are the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR) and its Protocols (for other texts). Another important source is the UN Convention on the Rights of Persons with Disabilities (UN CRPD).

Compliance to the ethical principles and legislation is ensured by the Commission's **H2020 ethics appraisal scheme** (i.e. the European Commission's general approach on ethics issues in research), which includes all of the following:

- ethics *self*-assessment (by the applicants, in their proposal)
- two-stage ethics review, with an ethics screening and, if necessary, an ethics assessment (by the Commission/Agency, during the selection procedure)
- if necessary, ethics checks, reviews and audits (during the implementation of the action and up to two years afterwards; *see Article 22*).

For more information on ethics, *see the Guidance — How to complete your ethics self-assessment, the Guidance note — Research involving dual use items, the Guidance note — Research focusing exclusively on civil applications, the Guidance note — Potential misuse of research results and more generally, the Online Manual.*

2. Activities carried out outside the EU

Activities carried out in a non-EU country must comply with the laws of that country AND be allowed in at least one EU Member State.

The beneficiaries must confirm in the ethics self-assessment section of their proposal that this condition is met.

3. Exclusive focus on civil applications

Activities under the action must have an exclusive focus on civil applications.

This does not mean that the research results cannot peripherally be useful in a military context. Research related to *dual-use* products or technologies (usually used for civilian purposes but with possible military applications) is not prohibited. However, activities that *focus* on military applications will NOT be funded.

4. Research integrity

Beneficiaries must commit to the highest standards of research integrity (as set out, for instance, in the European Code of Conduct for Research Integrity[50]) and comply with the essential research integrity principles listed in Article 34.1.

Essential research integrity principles:

- honesty
- reliability
- objectivity
- impartiality
- open communication
- duty of care
- fairness and
- responsibility for future science generations

According to these principles, beneficiaries must ensure that their researchers:

- present their research goals and intentions in an honest and transparent manner
- design their research carefully and conduct it in a reliable fashion (taking its societal impact into account)
- use appropriate techniques and methodologies (including for data collection and management)
- exercise due care for research subjects (human beings, animals, environment or cultural objects)
- ensure objectivity, accuracy and impartiality when disseminating the results
- allow access to research data (as much as possible and taking into account the legitimate interest of the beneficiaries and open access obligations, if any)
- make the necessary references to their work and that of other researchers
- refrain from practicing any form of plagiarism, data falsification or fabrication

[50] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-ethics_code-of-conduct_en.pdf.

– avoid double funding, conflicts of interest and misrepresentation of credentials or other research misconduct.

3.0 The detailed research integrity obligations were introduced with GA version 3.0. For older grant agreements, these obligations were however already implicitly included in Article 34 (which already provided for the more general obligation to comply with the highest standards of research integrity and the European Code of Conduct for Research Integrity).

5. Activities raising ethics issues

If the ethics review (carried out by the Commission/Agency during the selection procedure) identifies an ethics issue, the Commission/Agency will define **ethics requirements** and include them as **deliverables** in Annex 1 of the GA.

Examples (ethics issues): *involvement of patients, volunteers, children or vulnerable populations; use of human (embryonic) stem cells; implication of developing countries; collecting and processing of personal data; use of animals; risk of environmental impact; risk of malevolent use or misuse of research results*.

Examples (ethics deliverables): *to submit to the Commission/Agency a report on certain ethics issues during the course of the action*.

Other ethics requirements may have been required already before GA signature.

Examples (other ethics requirements): *confirmation that the research data of this study will not be transferred outside the EU.*

In addition, the beneficiary must obtain — before the start of the activity for which it is needed — all the necessary **ethics opinions, notifications** and **authorisations** *(e.g. to ethics committees, data protection authorities, dual-use authorities, etc.).*

Best practice: When preparing the applications for such opinions/notifications/ authorisations, beneficiaries should request the assistance of ethics experts, research ethics departments/committees and of their organisation's data protection officer (DPO).

⚠ **Record-keeping —** The documents no longer need to be submitted before the start of the action, but the beneficiary must keep them on file and provide them on request to the Commission/Agency *(e.g. in case of ethics reviews, checks or audits; see Article 18).*

The beneficiary must be able to show that the opinions/authorisations/notifications cover the tasks to be undertaken in the context of the action.

If the documents are not in English, the beneficiary may be asked to provide an English summary.

This summary should show that the opinions/authorisations/notifications cover the action activities and should include conclusions, recommendations and, if applicable, conditions imposed *(e.g. the use of animals is authorised but limited to a certain number)*.

Translation costs may (exceptionally) be charged to the action *(see Article 6.2.D.3)* — at the rate of non-official translations.

The Commission/Agency may carry out **ethics checks, reviews or audits**, to ensure that the beneficiaries have properly implemented the ethics requirements and obtained the opinions/notifications/authorisations *(see Article 22)*.

6. Activities involving human embryos (hE) or human embryonic stem cells (hESC)

Activities that involve human embryos (hE) or human embryonic stem cells (hESC) can only be funded, if:

- they comply with the Statement of the European Commission related to research activities involving human embryonic stem cells[51] (in particular, do NOT result in the destruction of human embryos)

and

- they are set out in Annex 1 or
- the coordinator has obtained explicit approval by the Commission/Agency.

These activities raise ethics issues and must comply with the rules above (and in particular the ethics requirements set out in Annex 1; *see point 5*).

[51] Available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:373:0012:0015:EN:PDF

ARTICLE 35 — CONFLICT OF INTERESTS

ARTICLE 35 — CONFLICT OF INTERESTS

35.1 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 *[Commission][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 *[Commission][Agency]* may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

35.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement or participation of the beneficiary may be terminated (see Article 50).

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

1. Conflicts of interests

The beneficiaries must ensure that the action is implemented impartially and objectively, as described in the GA. They must do their best to avoid conflicts of interest.

A 'conflict of interests' exists if **shared interests**:

- influenced the contract's/subcontract's selection/award procedure
- influenced the contract's/subcontract's price and this does not correspond to the market price or
- affected the action's performance, as measured by the appropriate quality standards.

These interests may be:

- **economic interests** *(e.g. unjustified and preferential contracts or subcontracts with connected companies (not based on best value for money, technical merit, etc.))*

  Examples:

  1. *A beneficiary subcontracts work to another legal entity at above the market prices because it is a shareholder or has economic interests in this other legal entity.*

  2. *A university subcontracts work to a consultancy firm owned by a professor carrying out part of the work for the project in which the university participates.*

  3. *A university gives a preferential subcontract to its spin-off company: the contract is not based on the best value for money principle (i.e. the price is higher than the general market price for the same type of service).*

- **political or national affinity** *(e.g. beneficiaries or third parties are chosen, or research-related decisions are adopted, based on political considerations, connections or national affinity)*

Example: *The choice of an action's demonstration site is based on national affinities, not on the site's merits*.

- **family or emotional ties** *(e.g. contracts or subcontracts made with family members for their benefit)*

  Example: *A husband works for a beneficiary who subcontracts work to an SME owned by his wife.*

- **other shared interests**.

  Examples:

  1. *If a beneficiary or third party participates in the action not because of its technical capacity and objective merits, but because it has a close relationship with someone else working for the action, and this affects the action's implementation.*

  2. *If decisions made in the context of the action are taken not according to objective and impartial criteria, but because of these shared interests.*

  3. *If entities with close ties create a professional relationship with the intention of being part of the action in order to satisfy other interests, and as a result, the quality of the implementation is (or is likely to be) compromised.*

If there is a **(risk of) a conflict of interests**, the coordinator must **inform** the Commission/Agency (via the Participant Portal), so that steps can be taken to resolve or avoid it.

This may result in the Commission/Agency putting in place certain measures.

ARTICLE 36 — CONFIDENTIALITY

ARTICLE 36 — CONFIDENTIALITY

36.1 General obligation to maintain confidentiality

During implementation of the action and for four years after the period set out in Article 3, 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**').

If a beneficiary requests, the *[Commission][Agency]* may agree to keep such information confidential for an additional period beyond the initial four years.

If information has been identified as confidential only orally, it will be considered to be confidential only if this is confirmed in writing within 15 days of the oral disclosure.

Unless otherwise agreed between the parties, they may use confidential information only to implement the Agreement.

The beneficiaries may disclose confidential information to their personnel or third parties involved in the action only if they:

(a) need to know to implement the Agreement and

(b) are bound by an obligation of confidentiality.

This does not change the security obligations in Article 37, which still apply.

The *[Commission][Agency]* may disclose confidential information to its staff, other EU institutions and bodies. It may disclose confidential information to third parties, if:

(a) this is necessary to implement the Agreement or safeguard the EU's financial interests and

(b) the recipients of the information are bound by an obligation of confidentiality.

Under the conditions set out in Article 4 of the Rules for Participation Regulation No 1290/2013[50], the Commission must moreover make available information on the results to other EU institutions, bodies, offices or agencies as well as Member States or associated countries.

The confidentiality obligations no longer apply if:

(a) the disclosing party agrees to release the other party;

(b) the information was already known by the recipient or is given to him without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;

(c) the recipient proves that the information was developed without the use of confidential information;

(d) the information becomes generally and publicly available, without breaching any confidentiality obligation, or

(e) the disclosure of the information is required by EU or national law.

[50] Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 of December 2013 laying down the rules for the participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)" (OJ L 347, 20.12.2013, p.81).

36.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Confidentiality

The beneficiaries (and also the Commission/Agency) must — during the action and for four years afterwards — keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed.

This is a **minimum obligation**: Beneficiaries may extend the period and agree to additional confidentiality-related obligations among themselves *(for example, for access rights or third parties involved in the action)*.

Best practice: Beneficiaries should inform each other (and the Commission/Agency) about any laws that require disclosing confidential information (and to work together to minimise any negative effects).

A beneficiary may ask the Commission/Agency to extend the period. This request must explain why and clearly identify the confidential information.

Security obligations — Stricter confidentiality obligations apply for information that is **EU-classified** or results that are subject to **limited disclosure/dissemination** in Annex 1 of the GA *(see Article 37)*.

For more information on security obligations, *see the Guidance — Guidelines for the handling of classified information in EU research projects, Guidance — Guidelines for the classification of information in research projects and, more generally, the Online Manual.*

The Commission/Agency will exchange confidential information with the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF) and other Agencies and H2020 funding bodies, to check double funding, pursue fraud and avoid plagiarism. (This is part of safeguarding the EU's financial interests).

ARTICLE 37 — SECURITY-RELATED OBLIGATIONS

ARTICLE 37 — SECURITY-RELATED OBLIGATIONS

37.1 Results with a security recommendation

[OPTION 1 if applicable to the grant: *The beneficiaries must comply with the 'security recommendation(s)' set out in Annex 1.*

For security recommendations restricting disclosure or dissemination, the beneficiaries must — before disclosure or dissemination to a third party (including linked third parties, such as affiliated entities) — inform the coordinator, which must request written approval from the [Commission][Agency].

*In case of changes to the security context, the beneficiaries must inform the coordinator, which must immediately inform the [Commission][Agency] and, if necessary, request for Annex 1 to be amended (see Article 55).**]***

[OPTION 2: *Not applicable**]***

37.2 Classified information

[OPTION 1 if applicable to the grant: *The beneficiaries must comply with the security classification set out in Annex 1 ('security aspect letter (SAL)' and 'security classification guide (SCG)').*

Information that is classified must be treated in accordance with the security aspect letter (SAL) and Decision No 2015/444[51] — until it is declassified.

Action tasks involving classified information may not be subcontracted without prior explicit written approval from the [Commission][Agency].

*In case of changes to the security context, the beneficiaries must inform the coordinator, which must immediately inform the [Commission][Agency] and, if necessary, request for Annex 1 to be amended (see Article 55)].**[OPTION 2:*** *Not applicable.**]***

37.3 Activities involving dual-use goods or dangerous materials and substances

[OPTION1 if applicable to the grant: *Activities involving dual-use goods or dangerous materials and substances must comply with applicable EU, national and international law.*

*Before the beginning of the activity, the coordinator must submit to the [Commission][Agency] (see Article 52) a copy of any export or transfer licences required under EU, national or international law.**]***

[OPTION 2: *Not applicable**]***

37.4 Consequences of non-compliance

[OPTION 1 to be used if 37.1, 37.2 and/or 37.3 are applicable: *If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).*

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

[OPTION 2: *Not applicable.**]***

[51] Commission Decision 2015/444/EC, Euratom of 13 March 2015 on the security rules for protecting EU classified information.

1. Results with a security recommendation — EU-classified information

If the GA provides for (one of) these options, the beneficiaries must comply with the **security obligations** set out in this Article, in Annex 1 and in the other provisions of the GA *(see Articles 13 and 19)*.

The options will be inserted if the Commission/Agency finds during the selection procedure (security scrutiny) that the action raises security issues and must be subject to a security recommendation and/or EU-classification under Decision No 2015/444[52].

For more information on security obligations, *see the Guidance — Guidelines for the classification of information in research projects, the Guidance — Guidelines for the handling of classified information in EU research projects, the Guidance note — Potential misuse of research results and, more generally, the Online Manual.*

2. Activities involving dual-use goods

Beneficiaries that carry out activities involving dual-use goods must comply with applicable EU, national and international law, and in particular Regulation No 428/2009[53].

Moreover, the coordinator must — before the start of the activity for which it is needed — submit a **copy** of any **export** or **transfer licence**.

For more information on dual use goods, *see the Guidance — How to complete your ethics self-assessment* and the *Guidance note — Research involving dual use items.*

[52] Commission Decision 2015/444/EC,Euratom of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p.53).

[53] Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION – VISIBILITY OF EU FUNDING

38.1 Communication activities by beneficiaries

38.1.1 Obligation to promote the action and its results

The beneficiaries must promote the action and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a major media impact, the beneficiaries must inform the *[Commission][Agency]* (see Article 52).

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

Unless the *[Commission][Agency]* requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the EU emblem and

(b) include the following text:

For communication activities: "This project has received funding from the *[European Union's Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018]* under grant agreement No [number]".

For infrastructure, equipment and major results: "This *[infrastructure][equipment][insert type of result]* is part of a project that has received funding from the *[European Union's Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018]* under grant agreement No [number]".

When displayed together 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 *[Commission][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.

38.1.3 Disclaimer excluding *[Agency and] Commission* responsibility

Any communication activity related to the action must indicate that it reflects only the author's view and that the *[Agency and the]* Commission *[is] [are]* not responsible for any use that may be made of the information it contains.

1. Communication activities (beneficiaries) — Promoting the action and its results

The beneficiaries must promote the action and its result, with a **comprehensive communication plan** that defines clear objectives (adapted to various relevant target audiences) and sets out a concrete planning for the communication activities (including a description and timing for each activity — throughout the action duration).

'Promoting the action' means providing targeted information to multiple audiences (including the media and the public), in a strategic and effective manner and possibly engaging in a two-way exchange

The beneficiaries are free to choose the type of communication activities[54].

Examples: *a press release for the general public at the start of the action; an interview in the local radio station after a major achievement of the action; an event in a shopping mall that shows how the outcomes of the action are relevant to our everyday lives; organising local workshops about the action, targeted at audiences for which the action is of interest; producing a brochure to explain the action's work to school or university students to show how interesting this specific research topic can be.*

The activities must however:

- be effective (i.e. suited to achieving the action's communication goals)
- be proportionate to the scale of the action *(e.g. activities carried out by a large-scale action with beneficiaries coming from several different countries and a large budget must be more ambitious than those of a beneficiary in a mono-beneficiary grant)*
- address audiences that go beyond the action's own community (including the media and the public).

Ad hoc efforts or mere dissemination of results are NOT sufficient. (Dissemination of results *(see Article 29)* cannot replace communication activities (or vice-versa); both provisions must be complied with.)

Moreover, the activities must make the research activities known to **multiple audiences** (in a way that they can be understood by non-specialists) and include the public policy perspective of EU research and innovation funding, by addressing aspects such as:

- transnational cooperation in a European consortium (i.e. how working together has allowed to achieve more than otherwise possible)
- scientific excellence
- contributing to competitiveness and to solving societal challenges
- impact on everyday lives *(e.g. creation of jobs, development of new technologies, better quality products, more convenience, improved life-style, etc.)*
- better use of results and spill-over to policy-makers, industry and the scientific community.

Any communication activity that is expected to have a **major media impact** (i.e. media coverage (online and printed press, broadcast media, social media, etc.) that will go beyond having a local impact and which could have the potential for national and international outreach) must be first **notified** to the Commission/Agency.

[54] For the definition of 'communication activities', *see the Glossary.*

Security obligations — Information given may NOT include **EU-classified information** or information on results that are subject to **limited disclosure/dissemination** in Annex 1 of the GA *(see Article 37)*.

For more information on security obligations, *see the Guidance — Guidelines for the classification of information in research projects, Guidance — Guidelines for the handling of classified information in EU research projects and, more generally, the Online Manual.*

The communication activities during the action must already be part of the proposal (either as a specific work package for communication or by including them in another work package; *see the proposal templates*) and be included in Annex 1 and 2.

For more information on promoting the action, *see the Online Manual.*

2. Visibility of EU funding

The beneficiaries must — during the action and afterwards — ensure the visibility of EU funding for any communication activity related to the action (including in electronic form, via social media, etc.) and on any infrastructure, equipment or major result (including prototypes) funded by the grant, by:

- displaying the **EU emblem**

AND

- including the **reference to EU funding** set out in the GA.

Best practice: Where possible, beneficiaries should make this reference in the language of the communication activity or, for infrastructure, equipment or major results, the official language(s) of the country where they are located (using the text of the GA language version available on the Participant Portal Reference documents page).

The EU emblem and reference to EU funding must be displayed in a way that is easily visible for the public and with sufficient prominence (taking also into account the nature of the activity or object).

Examples: *a sticker or poster for equipment and major results, a plaque or billboard for infrastructure.*

For guidance on using the EU emblem, *see the Guide to using the EU emblem.*

38.2 Communication activities by the *[Agency and the]* Commission

38.2.1 Right to use beneficiaries' materials, documents or information

The *[Agency and the]* Commission may use, for its communication and publicising activities, 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 received from any beneficiary (including in electronic form).

This does not change the confidentiality obligations in Article 36 and the security obligations in Article 37, all of which still apply.

If the *[Agency's or the]* Commission's use of these materials, documents or information would risk compromising legitimate interests, the beneficiary concerned may request the *[Agency or the]* Commission not to use it (see Article 52).

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; the]* Commission 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 1049/2001[52], 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 or]* the Commission.

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 and the]* Commission will insert the following information:

> "© — [year] — [name of the copyright owner]. All rights reserved. Licensed to the *[[name of the Agency] and the] [European Union (EU)][Euratom]* under conditions."

[52] 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.

38.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Communication activities (Commission/Agency)

The Commission/Agency may use (free of charge) any (non-confidential and non-classified) information, documents and materials received from the beneficiaries, for its own communication and publicising activities.

> ***Examples (material):*** *summaries for publication (submitted as part of the reports), public deliverables and any other material, such as pictures or audio-visual material, provided by beneficiaries*
>
> ***Examples (communication activities):*** *using a picture or the publishable summary included in the final report submitted by the action to write a story about a particularly successful action for a Commission publication (e.g. Horizon - The EU Research & Innovation Magazine), or for speeches, etc.*
>
> ***Examples (publicising activities):*** *providing on an Commission/Agency website general information about the action such as its name, a project summary, the participating partners, the EU funding, etc.*

If the use would risk compromising legitimate interests, the beneficiary may request that the material is not used. This request must explain why and include the information, documents or material concerned.

If the Commission/Agency needs to edit or redraft the material, it will be careful not to distort any content.

Beneficiaries may ask the Commission/Agency to include a copyright notice *(e.g. by including such a notice in the material)*.

The beneficiaries must ensure that the Commission/Agency can use the documents or materials by making **arrangements** with any **third parties** that could claim rights to them.

ARTICLE 39 — PROCESSING OF PERSONAL DATA

ARTICLE 39 — PROCESSING OF PERSONAL DATA

39.1 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 45/2001[53] 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).

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 or Euratom (including checks, reviews, audits and investigations; see Article 22).

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(s) that are published on the *[Agency and]* Commission websites.

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

[53] 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).

1. Processing of personal data (Commission/Agency)

The Commission/Agency will process personal data in compliance with Regulation No 45/2001 and as set out in its Participant Portal privacy statements.

Personal data will be processed only for the purpose of implementing, managing and monitoring the GA or protecting EU/Euratom financial interests (including controls on eligibility of costs, proper implementation of the action and compliance with other obligations).

The level of detail of the data requested will be determined case-by-case and will be limited to what is necessary (for implementing, managing, monitoring and controlling the GA or protecting the EU financial interests).

When the Commission/Agency collects and processes personal data under the GA, national data protection law is NOT applicable and will NOT be accepted as a pretext for not complying with obligations under the GA.

Disclosure of staff data under the GA *(e.g. data requested by the Commission/Agency project officer or auditors)* is automatically justified under Article 5(c) of Regulation 45/2001.

The processing of personal data under the GA (manual or electronic) will be first **notified** (by the data controller) to the Commission/Agency Data Protection Officer (DPO).

The notifications are available via the Register of the DPO[55] (and describe the processing operations, legal basis, security safeguards, retention period, possible data transfer, etc.).

In addition, for processing that implies specific risks to the rights and freedoms of the data subjects (*e.g. processing of data relating to health*), the European Data Protection Supervisor (EDPS) will be consulted.

2. Right to access and correct personal data

Persons whose data is being processed (data subjects) can contact the data controller or the DPO (via the contact information in the privacy statement), to:

- correct errors in the data, block access or delete their data
- complain about the data collection and use, and claim compensation for any damage.

3. Complaints to the EDPS

Persons whose data is being processed by the Commission/Agency can lodge a complaint with the European Data Protection Supervisor (EDPS) (i.e. the independent supervisory authority for data processing by EU institutions).

Best practice: The beneficiaries should first contact the data controller (via the contact information in the privacy statement), since s/he might be able to solve the problem quickly.

[55] Available at http://ec.europa.eu/dpo-register/search.htm.

39.2 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(s) (see above), before transmitting their data to the *[Agency or the]* Commission.

39.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 39.2, the *[Commission][Agency]* may apply any of the measures described in Chapter 6.

1. Processing of personal data (beneficiaries)

The beneficiaries must process personal data under the GA in accordance with EU and national law on data protection (in particular, Directive 95/46/EC[56] and the corresponding national law).

⚠ The Directive is currently under revision. The new General Data Protection Regulation No 2016/679 will apply from 25 May 2018.

'**Personal data**' means any information, private or professional, which relates to an identified or identifiable natural person (for the full definition, see Article 2(a) of Directive 95/46/EC).

Examples (personal data): *name, address, identification number, e-mail, CV, bank account number, phone number, medical records*.

There are various potential identifiers, including full name, pseudonyms, occupation, address or any combination of these. Individuals are considered NOT 'identifiable', if identifying them requires excessive effort.

Certain categories of data are more 'sensitive' than others, and these may only be processed according to specific rules. [57]

Examples (sensitive data): *racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health, sexual orientation, etc*.

'**Processing of personal data'** means any operation (or set of operations) which is performed on personal data, either manually or by automatic means. This includes:

- collection
- recording
- organisation and storage

[56] Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

[57] *See Article 8 of Directive 95/46/EC*.

- adaptation or alteration
- retrieval and consultation
- use
- disclosure by transmission, dissemination or otherwise making available
- alignment or combination
- blocking, deleting or destruction.

Examples (processing of personal data): *creating a mailing list or a list of participants; managing a database; accounting records on personnel costs; time-sheets; project planning with names.*

Under these laws, personal data must be processed according to certain principles and conditions that aim to ensure **data quality** and **confidentiality**.[58]

The beneficiaries must give their staff access to the personal data ONLY on a **need to know** basis, for carrying out their functions under the GA. This means that the beneficiaries must put in place adequate access controls and retention policies for the various categories of data they hold.

The beneficiaries must **inform their staff** (whose personal data are collected and processed by the Commission/Agency) about the disclosure of their data to the Commission/Agency (by providing them with the relevant Participant Portal privacy statement).

Examples:

1. *Before encoding staff data in the Beneficiary Register or into a proposal, the beneficiary must provide the staff concerned with the privacy statement.*

2. *If in an ex-post audit, the Commission requests the names, CVs, time-sheets and salaries of the beneficiary's staff (to check the eligibility of personnel costs), the beneficiary must inform the staff concerned and provide them with the privacy statement.*

Processing of personal data is also part of the ethics obligations *(see Article 34).* Both provisions must be complied with.

[58] *See Articles 6, 16, 17 of Directive 95/46/EC.*

ARTICLE 40 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE *[COMMISSION][AGENCY]*

ARTICLE 40 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE *[COMMISSION][AGENCY]*

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

If the *[Commission][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 *[Commission][Agency]*.

1. Assignment of claims for payment

What?

The beneficiaries may assign (i.e. transfer, sell or give) claims for payment (for work carried out under the action) to a third party, if the Commission/Agency has explicitly agreed in writing.

⚠ Assignments of rights under this Article are limited to ***claims for payment*** under Article 21. Transfers of other rights or obligations *(e.g. replacement of a beneficiary by the entity that bought it)* are governed by other provisions *(e.g. amendments; see Article 55)*.

⚠ Assignment has NO effect on the beneficiary's obligations under the GA; it remains **fully bound** by them.

Only *actual* (i.e. existing) claims for payment may be assigned (including pre-financing). Assignment is NOT possible for future claims.

How?

Assignment of payment claims must be **requested**.

The request for approval must come from the coordinator, on behalf of the beneficiary concerned. It must be in writing and must explain the reasons for the assignment.

The Commission/Agency will assess the reasons given and approve or reject the request in writing.

Examples (reasonable requests for assignment):

1. *Assignment of a claim for payment for work carried out by a research laboratory sold after the end of the action (but before payment of the balance) by a beneficiary to another legal entity.*

2. *Assignment for the benefit of creditors in a bankruptcy procedure.*

If the assignment is linked to bankruptcy, the approval will be subject to compliance with national law.

CHAPTER 5 DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

ARTICLE 41 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

CHAPTER 5 DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES *[— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION]*

MULTI-BENEFICIARY: ARTICLE 41 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES [— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION]

41.1 Roles and responsibilities towards the *[Commission][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 *[Commission][Agency]* expressly relieves them of this obligation.

The **financial responsibility** of each beneficiary is governed by Article 44.

MONO-BENEFICIARY: ARTICLE 41 — DIVISION OF THE BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

41.1 Role and responsibility towards the *[Commission][Agency]*

The beneficiary has full responsibility for implementing the action and complying with the Agreement.

The beneficiary is itself responsible for:

(a) monitoring that the action is implemented properly (see Article 7);

(b) informing the *[Commission][Agency]* immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(c) submitting the deliverables and reports to the *[Commission][Agency]* (see Articles 19 and 20);

(d) submitting to the *[Commission][Agency]* in good time any documents or information required by it

and may not delegate or subcontract these tasks to any third party (including linked third parties).

[OPTION to be used when the beneficiary is an European Research Infrastructure Consortium (ERIC)*[54] *without own resources:** As an exception, the beneficiary delegates the tasks set out above to [insert name of member of the ERIC]. The beneficiary retains sole responsibility for compliance with the obligations under the Agreement.]

[54] See Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 08.08.2009, p.1).

1. Division of roles and responsibilities — Responsibilities towards the Commission/Agency

The beneficiaries have full responsibility for **implementing the action** *(see Article 7)* and for **complying with the GA**.

This means that:

- each beneficiary must ensure that it complies with its obligations under the GA
- each beneficiary must ensure swift and proper implementation of the action (i.e. that there are no delays which can be attributed to it)
- each beneficiary is responsible (towards the Commission/Agency) for the tasks performed by its subcontractors and linked third parties
- the Commission/Agency is NOT responsible for the implementation of the action and has NO responsibility for the way in which the action is conducted (or any adverse consequences).

The beneficiaries are **jointly and severally liable for** the **technical implementation** of the action.

This means that the beneficiaries — including any new beneficiary introduced through an amendment — accept that they are together responsible for fully implementing the whole action — even if one of them withdraws.

If one of them **withdraws**, the remaining members of the consortium must carry out the action as set out in the GA — including the part that the defaulting beneficiary was supposed to carry out — unless the Commission/Agency expressly agrees otherwise (exceptional; only for specific reasons). They will have to do this without any additional funding (although — in case of beneficiary termination — the Guarantee Fund may intervene for the defaulting beneficiary; *see Article 50*).

> ***Example:*** *Legal entities A, B and C are members of a consortium that signed a GA with the Commission in order to carry out a research action. One year later, beneficiary C goes bankrupt. Beneficiaries A and B (or even only A or B) must carry out the entire action as described in Annex 1.*

The remaining beneficiaries may later take legal action against the defaulting beneficiary, in order to obtain compensation.

Moreover, the GA will have to be amended, in order to redistribute the tasks, terminate the beneficiary's participation, and/or add a new beneficiary *(see Article 50)*.

In case of recovery, each beneficiary's **financial responsibility** is in principle limited to its own debt and undue amounts paid for costs declared by its linked third parties. It is only for the 5% contribution to the Guarantee Fund that financial responsibility is shared; *see Article 21.4*).

Specific cases (beneficiaries' responsibilities):

ERIC (European Research Infrastructure Consortium)[59]: If the beneficiary is an ERIC which does not have its own resources, it may exceptionally delegate the following responsibilities to one of its members:

- monitor that the action is implemented properly *(see Article 7)*
- inform about events or circumstances likely to affect significantly or delay the action

[59] Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (OJ L 206, 08.08.2009, p.1).

implementation *(see Article 17.2)*
- submit deliverables and reports *(see Articles 19 and 20)*
- submit documents or information required

⚠ An ERIC using one of its members remains **fully responsible** for it under the GA.

MULTI-BENEFICIARY:

41.2 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 Participant Portal Beneficiary Register (via the electronic exchange system) up to date (see Article 17);

(ii) inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(iii) submit to the coordinator in good time:

- individual financial statements for itself *[and its linked third parties]* and, if required, certificates on the financial statements (see Article 20);
- the data needed to draw up the technical reports (see Article 20);
- ethics committee opinions and notifications or authorisations for activities raising ethical issues (see Article 34);
- 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 *[Commission][Agency]* (in particular, providing the *[Commission][Agency]* with the information described in Article 17), unless the Agreement specifies otherwise;

(iii) request and review any documents or information required by the *[Commission][Agency]* and verify their completeness and correctness before passing them on to the *[Commission][Agency]*;

(iv) submit the deliverables and reports to the *[Commission][Agency]* (see Articles 19 and 20);

(v) ensure that all payments are made to the other beneficiaries without unjustified delay (see Article 21);

(vi) inform the *[Commission][Agency]* of the amounts paid to each beneficiary, when required under the Agreement (see Articles 44 and 50) or requested by the *[Commission][Agency]*.

The coordinator may not delegate or subcontract the above-mentioned tasks to any other beneficiary or third party (including linked third parties).

[OPTION to be used when the coordinator is a secondary or higher education establishment or public body and there is an 'authorisation to administer' given to a third party created, controlled or affiliated to the coordinator: *As an exception, the coordinator delegates the tasks set out in Point 2(b)(v) and (vi) above to [insert name of third party with an authorisation to administer]. The coordinator retains sole responsibility for the EU contribution and for compliance with the obligations under the Agreement.****]***

[OPTION to be used when the coordinator is an European Research Infrastructure Consortium (ERIC)[54] without own resources: *As an exception, the coordinator delegates the tasks set out in Point 2(b)(i) to (iv) above to [insert name of member of the ERIC]. The coordinator retains sole responsibility for compliance with the obligations under the Agreement.****]***

41.3 Internal arrangements between beneficiaries — Consortium agreement

[OPTION 1 to be used, unless the work programme specifies that there is no need for a consortium agreement*: The beneficiaries must have internal arrangements regarding their operation and coordination 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.

[OPTION 2: *Not applicable****]***

41.4 Relationship with complementary beneficiaries — Collaboration agreement

[OPTION 1 for complementary grants if foreseen in the work programme*: The beneficiaries must conclude a written 'collaboration agreement' with the complementary beneficiaries to coordinate the work under the Agreement and the complementary grant agreement(s) (see Article 2), covering for instance:*

- *efficient decision making processes and*
- *settlement of disputes.*

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

The beneficiaries and complementary beneficiaries must create and participate in common boards and advisory structures to decide on collaboration and synchronisation of activities, including on management of outcomes, common approaches towards standardisation, SME involvement, links with regulatory and policy activities, and commonly shared dissemination and awareness raising activities.

The beneficiaries must give access to their results to the complementary beneficiaries, for the purposes of the complementary grant agreement(s) (see Article 31.6).

*The beneficiaries must share the technical reports (see Article 20.3 and 20.4). The confidentiality obligations in Article 36 apply.****]***

[OPTION 2: *Not applicable****]***

[54] See Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 08.08.2009, p.1).

41.5 Relationship with partners of a joint action — Coordination agreement

***[OPTION 1 for joint actions (joint call with a third country or an international organisation)**: The beneficiaries must conclude a '**coordination agreement**' with the partners of the third country or international organisation action (see Article 2), covering for instance:*

- *the internal organisation of the beneficiaries in both actions, including the decision making procedures;*
- *rules on intellectual property rights (for example regarding protection, dissemination, use and access rights);*
- *the settlement of internal disputes;*
- *liability, indemnification and confidentiality arrangements between the beneficiaries in both actions.*

*The coordination agreement must not contain any provision contrary to the Agreement.**]***

[OPTION 2:** Not applicable**]

MONO-BENEFICIARY:

41.2 Internal division of roles and responsibilities

Not applicable

41.3 Internal arrangements between beneficiaries — Consortium agreement

Not applicable

41.4 Relationship with complementary beneficiaries — Collaboration agreement

[...]

41.5 Relationship with partners of a joint action — Coordination agreement

[…]

1. Division of roles and responsibilities — Roles and responsibilities within the consortium

The general division of roles and responsibilities within the consortium is as follows:

- the coordinator must coordinate and manage the grant and is the central contact point for the Commission/Agency
- the beneficiaries must all together contribute to a smooth and successful implementation of the grant (i.e. contribute to the proper implementation of the action, comply with their own obligations under the GA and support the coordinator in his obligations).

The beneficiaries must send all documents/information **via the coordinator** — unless, for specific cases, the Commission/Agency requests them to provide such information directly *(see Article 22)*.

Example:

In case of an audit, the beneficiaries must submit the documents requested directly to the auditors, if requested so.

2. The coordinator's roles and responsibilities

The coordinator is the **central contact point** for the Commission/Agency and represents the consortium (towards the Commission/Agency).

For this purpose, the GA imposes a number of specific coordination tasks.

Main coordination tasks:

- Monitor that the action is implemented properly
- Act as the intermediary for all communications — unless the Agreement specifies otherwise
- Request and review any documents or information required and verify their completeness and correctness

  The coordinator must check the quality of the documents submitted by the beneficiaries, including:

  - reviewing the individual financial statements from each beneficiary to verify consistency with the action tasks, as well as their completeness and correctness *(e.g. that the addition of the different costs declared by the beneficiary corresponds to the total amount declared, or that the 25% flat-rate for indirect costs is correctly calculated)*

    The coordinator is not, however, obliged to verify the *eligibility* of these costs (under Article 6) or to request justifications. Each beneficiary remains responsible for the cost it declares (both as regards eligibility and as regards sufficient records and supporting documents to substantiate them).
  - verifying that all the requested documents are submitted by the beneficiary *(e.g. the summary, the questionnaire etc.)*
  - verifying that the beneficiary submits the documents in the requested format
  - verifying that the technical information submitted by a beneficiary concerns its action tasks as described in Annex 1 (and not something unrelated to the action).
- Submit the deliverables and reports
- Distribute payments to the other beneficiaries, without unjustified delay
- Inform the Commission/Agency of the amounts paid to each beneficiary, if requested to do so *(see Article 44.1.2)*

The coordination tasks listed in Article 41.2 can normally NOT be subcontracted or outsourced to a third party (including linked third parties). They can NOT be carried out by other beneficiaries. (By contrast, the coordinator remains free — like any other beneficiary — to subcontract or use linked third parties for *other* tasks; *see Articles 13, 14*).

Specific cases (coordinator's responsibilities):

Authorisation to administer — Coordinators that are secondary or higher education establishments and public bodies may exceptionally delegate the administration of the payments to another legal entity (third party), in most cases a foundation.

The third party must fulfil the following conditions:

- they must have been granted the 'authorisation to administer'

AND

- it must be affiliated, controlled or set up by the coordinator in order to handle its administrative affairs (and those must include receiving and administering EU funds).

⚠ **Project management —** Coordination and administration tasks are considered **action tasks**.

⚠ Coordinators using a third party with authorisation to administer remain **fully responsible** for it under the GA.

In this case, the bank account number to be provided under Article 21.8 must be that of the entity with the authorisation to administer and the payments will be transferred directly to it. The entity must therefore be registered in the Beneficiary Register and validated by the Commission/Agency. It also will get its own PIC — although it is not a beneficiary.

The costs of the entity may be declared by the coordinator as in-kind contributions (free of charge or against payment; *see Articles 6, 11 and 12*).

ERICs (European Research Infrastructure Consortia)[60]*:* Beneficiaries that are ERICs and do not have their own resources may exceptionally delegate the following coordination tasks to one of its members:

- monitor that the action is implemented properly *(see Article 7)*;
- act as intermediary for communications *(see Article 17)*;
- request and review documents or information required and verify completeness and correctness;
- submit deliverables and reports *(see Articles 19 and 20)*;

⚠ ERICs using one of their members remain **fully responsible** for it under the GA.

Scientific coordinator — Non-administrative coordination tasks (i.e. tasks not listed in this Article, *e.g. scientific coordination of the action*) can be carried out by any beneficiary.

Such a beneficiary may internally (i.e. within the consortium) be called 'scientific coordinator'. In the relationship with the Commission/Agency, it will however NOT be considered the action's coordinator (but one of the other beneficiaries).

Costs for scientific coordination can be eligible, if they comply with the eligibility conditions set out in Article 6.

3. Internal arrangements between beneficiaries — Consortium agreement

The beneficiaries must conclude a consortium agreement to ensure a smooth and successful project implementation — unless exceptionally provided otherwise in the work programme/call.

> **Best practice:** In view of their importance for avoiding disputes and ensuring a smooth implementation of the grant, the Commission/Agencies strongly recommend that every consortium sets up a consortium agreement, even if not mandatory.

The 'consortium agreement' is an agreement between members of the consortium, to set out their internal arrangements for implementing the grant. It is purely internal; the EU/Euratom is not party and has NO responsibility for it (nor for any adverse consequences).

The consortium agreement should **complement** the GA and must NOT contain any provision contrary to it (or to the Rules for Participation Regulation No 1290/2013 or the Financial Regulation No 966/2012).

The consortium agreement should in principle be negotiated and concluded **before the signature of the GA** (i.e. each beneficiary should sign the consortium agreement before

[60] Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (OJ L 206, 08.08.2009, p.1)

acceding to the GA). Otherwise, there is usually a serious risk that prolonged disagreement jeopardises the action. Of course, the consortium agreement does not have to remain the same during the lifetime of the action, it can be modified by the consortium at any moment.

The consortium agreement must be **in writing**. It may be a simple written agreement or take some other form *(e.g. a notarial deed or part of the statutes of a separate legal entity, such as a European Economic Interest Grouping, association or joint venture).*

Best practice: The beneficiaries should carefully consider the advantages and disadvantages of the different legal forms, and choose the one that best fits the consortium's specific needs.

For guidance on consortium agreements, *see the Online Manual and the Guidance — How to draw up your consortium agreement.*

4. Relationship with complementary beneficiaries — Collaboration agreement

If the GA provides for this option, the beneficiaries must conclude a collaboration agreement to ensure a smooth and successful project implementation.

The option will be inserted ONLY for complementary actions *(see Article 2)*.

A 'collaboration agreement' is an agreement between the consortium and the beneficiaries of another complementary H2020 grant, to coordinate their work under the different GAs. It is purely internal; the EU/Euratom is not party and has NO responsibility for them (nor for any adverse consequences).

5. Relationship with participants of a joint action — Coordination agreement

If the GA provides for this option, the beneficiaries must conclude a coordination agreement, to ensure a smooth and successful project implementation.

The option will be inserted ONLY for jointly funded actions *(see Article 2)*.

A 'coordination agreement' is an agreement between the consortium and the participants of the third country/international organisation (IO) action *(see Article 2)*. It is purely internal; the EU/Euratom is not party and has NO responsibility for it (or for any adverse consequences).

The coordination agreement should **complement** the grant agreements and must NOT contain any provision contrary to them (or to the Rules for Participation Regulation No 1290/2013 or the Financial Regulation No 966/2012).

Moreover, it must be in line with the consortium agreement. It can NOT replace the consortium agreement (and vice versa).The coordination agreement should in principle be negotiated and concluded **before any work is begun**. The work programme/call may require that proposals include a draft coordination agreement.

The coordination agreement can take **various forms**, but a standard written agreement is most common.

For guidance on coordination agreements, *see the Online Manual and the Guidance — How to draw up your coordination agreement.*

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

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

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

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

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

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

42.1 Conditions

The *[Commission][Agency]* will — after **termination of the participation of a beneficiary** 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 22).

The rejection may also be based on the **extension of findings from other grants to this grant** (see Article 22.5.2).

42.2 Ineligible costs to be rejected — Calculation — Procedure

Ineligible costs will be rejected in full ***[OPTION if lump sum foreseen in Article 5.2:****, except for lump sum costs, which will be rejected proportionally to the tasks or parts of the action not implemented****]***.

If the rejection of costs does not lead to a recovery (see Article 44), the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned of the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 21.5). The coordinator or beneficiary concerned may — within 30 days of receiving notification — formally notify the *[Commission][Agency]* of its disagreement and the reasons why.

If the rejection of costs leads to a recovery, the *[Commission][Agency]* will follow the contradictory procedure with pre-information letter set out in Article 44.

42.3 Effects

If the *[Commission][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 20.3 and 20.4). It will then calculate the interim payment or payment of the balance as set out in Articles 21.3 or 21.4.

If the *[Commission][Agency]* rejects costs **after termination of the participation of a beneficiary**, it will deduct them from the costs declared by the beneficiary in the termination report and include the rejection in the calculation after termination (see Article 50.2 and 50.3).

If the *[Commission][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 21.3 or 21.4.

If the *[Commission][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.

1. Cost rejection

If the Commission/Agency finds **ineligible costs** *(in particular, following a check, audit, extension of audit findings, review or OLAF investigation)*, it will reject these costs (— in full, i.e. for the amount that is ineligible).

Cost rejections will be made for **violations of cost eligibility rules** (*see Articles 6, 8-16*) and will correspond to the amount that is ineligible.

Grounds for cost rejection (Commission/Agency):

- **Costs** do **not comply with** the GA **eligibility rules (in this grant)**

  The Commission/Agency will reject costs, if they do not comply with the eligibility rules set out in Articles 6 and 8-16.

- **Costs** do **not comply with** the GA **eligibility rules (in other grants)**

  The Commission/Agency may also reject costs, if such ineligibility was found in *other* grants, if:

  - the other grants were awarded under similar conditions and
  - the ineligibility is:
    - systemic or recurrent and
    - has a material impact on this grant.

Rejection of costs can take place at any moment — at the time of beneficiary termination, interim payment, payment of the balance or afterwards.

2. Procedure

The procedure differs according to the situation:

- if cost rejection leads to a recovery: there will be an *ex ante* **contradictory procedure**
- if cost rejection does NOT lead to a recovery: there will be NO *ex ante* contradictory procedure, but the possibility to object *ex post* to the rejection (**payment review procedure**).

In both cases, the Commission/Agency will explain which costs were rejected and why they were rejected. In both cases, beneficiaries can object and bring forward their arguments for disagreeing. The switch to the ex post payment review procedure allows the

Commission/Agency however to pay quickly without having to suspend the payment deadlines (by postponing the discussion on the disputed costs).

Basic contradictory procedure:

Step 1 — The Commission/Agency informs the coordinator/beneficiary concerned of its intention (and the reasons why), in a **pre-information letter**.

Step 2 — The coordinator/beneficiary concerned has **30 days** to submit observations. (An extension may be granted on justified request — if submitted within the 30 days.)

Step 3 — The Commission/Agency analyses the observations and either stops the procedure or **confirms** it (**notification of amounts due**; *see Article 21.5)*.

Payment review procedure:

Step 1 — The Commission/Agency informs the coordinator about the rejection of costs and notifies the amounts that will be paid out (**notification of amounts due**; *see Article 21.5)*.

Step 2 — If the beneficiaries disagree, the coordinator/beneficiary concerned has **30 days** to inform the Commission/Agency of its objections.

Step 3 — The Commission/Agency analyses the request for review and **informs** the coordinator of its **outcome**.

Depending on the moment when costs are rejected, this procedure will be directed either at the **coordinator** or the **beneficiary concerned**:

- for rejections at the time of an interim payment or the payment of the balance: normally the coordinator
- for rejections after beneficiary termination and after payment of the balance: normally the beneficiary concerned.

If it is directed at the coordinator, the coordinator must immediately inform the beneficiaries concerned offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for its comments. It must also inform the other beneficiaries.

If it is directed at the beneficiary, the Commission/Agency will inform the coordinator in copy (in a way that preserves confidentiality).

Information obligation — Beneficiaries do not have to inform their coordinators or ask them to submit comments. However, they should inform them if there is the risk of a significant impact on the action *(see Article 17.2)*.

3. Cost rejection at the time of an interim payment or payment of the balance

If the Commission/Agency rejects costs (declared in the periodic or final report) at the moment **of** an **interim payment** or the **payment of the balance**, it will deduct them and calculate the **amount to be paid** accordingly.

If ineligible costs (declared in a previous report and already paid for) are found **in-between payments**, the Commission/Agency will reject them at the next payment (i.e. deduct the amount rejected from the costs declared in the next summary financial statement and calculate the amount to be paid accordingly).

Example for calculating a rejection at an interim payment:

Case 1: *Action with three beneficiaries (A, B andC) and a reimbursement rate 100 %.*

Maximum grant amount: EUR 500 000.

Pre-financing: EUR 200 000.

Costs declared by beneficiary A at the end of the first reporting period: EUR 95 000 (direct costs) + EUR 23 750 (indirect costs 25 %) = EUR 118 750 .

Costs declared by beneficiary B at the end of the first reporting period: EUR 115 000 (direct costs) +EUR 28 750 (indirect costs 25 %) = EUR 143 750.

Costs declared by beneficiary C at the end of the first reporting period: EUR 90 000 (direct costs) +EUR 22 500 (indirect costs 25 %) = EUR 112 500.

Total costs declared for the action at the end of the first reporting period: EUR 118 750 + EUR 143 750 + EUR 112 500 = EUR 375 000.

Some direct costs declared by beneficiary A are rejected for an amount of EUR 10 000 + EUR 2 500 (25 % flat rate for indirect costs) = EUR 12 500.

Total declared eligible costs approved by the Commission at the end of the first reporting period: EUR 375 000 — EUR 12 500 = EUR 362 500.

Application of the reimbursement rate 100%: EUR 362 500

Limit to 90 % of the maximum grant amount minus pre-financing: EUR 450 000— EUR 200 000 = EUR 250 000.

Amount due as interim payment: EUR 250 000

Case 2 (in between payments): *Total costs declared for the action in the 1st periodic report: EUR 375 000.*

Interim payment for the 1st periodic report = EUR 375 000

Costs rejected after interim payment or 1st periodic report: EUR 12 500

Total costs declared and accepted for the action in 2nd periodic report = EUR 100 000

Total eligible costs to be considered for the 2nd interim payment: EUR 100 000 – EUR 12 500 = EUR 87 500.

4. Cost rejection after beneficiary termination

If the Commission/Agency rejects costs **after beneficiary termination**, it will deduct the rejected amount from the costs the beneficiary declared in the **termination report** and calculate **the amount due** to the beneficiary *(see Articles 50.2 and 50.3)*.

> Only costs incurred by the beneficiary concerned until termination takes effect are eligible. Costs relating to contracts due for execution only after termination are NOT eligible.

If the amount which is due to the beneficiary is lower than the (pre-financing and interim) payments received by the beneficiary, the Commission/Agency will **recover** the difference *(see Article 44)*.

> Recovery at beneficiary termination during an ongoing action means that the beneficiary should pay back the amount to the *consortium*. If it doesn't, the Guarantee Fund will intervene and the Commission/Agency will then recover the amount for the Guarantee Fund.

Example for calculating a rejection after beneficiary termination:

Grant with 5 beneficiaries (A, B, C, D and E).

Maximum grant amount: EUR 500 000 (beneficiary maximum EU contribution: each beneficiary 100 000 EUR).

Reimbursement rate: 100 %.

Pre-financing: EUR 200 000.

Beneficiary termination:

Beneficiary A goes bankrupt in the middle of the action and its participation is terminated.

Eligible costs declared by beneficiary A in termination report: EUR 50 000 (direct costs) + EUR 25 000 (25 % flat rate for indirect costs) = EUR 62 500.

Costs rejected for beneficiary A following audit: EUR 10 000 + EUR 2 500 (25 % flat rate for indirect costs) = EUR 12 500.

No grant reduction.

The amount which is due for beneficiary A: EUR 62 500 – EUR 12 500 = EUR 50 000

Recovery:

Payments received by beneficiary A (according to the report on the distribution of payments): EUR 40 000.

Amount to be recovered from beneficiary A: EUR 40 000 – EUR 50 000 = EUR - 10 000 (no recovery; the positive balance of EUR 10 000 will be paid out at the next interim payment).

5. Cost rejection after payment of the balance

If the Commission/Agency rejects costs (declared in a periodic or final report) **after the payment of the balance**, it will deduct the amount rejected from the costs declared by the beneficiary in the final summary financial statement and calculate a **revised grant amount** for this beneficiary *(see Article 5.4)*.

If the revised grant amount for the beneficiary is lower than its share in the final grant amount, the Commission/Agency will **recover** the difference *(see Article 44)*.

Example for calculating a rejection after the payment of the balance:

Action with three beneficiaries (A, B and C) and a reimbursement rate of 100%.

Maximum grant amount: EUR 500 000

Eligible costs accepted for beneficiary A at payment of the balance: EUR 150 000 (direct costs) + EUR 37 500 (25% flat rate for indirect costs) = EUR 187 500

Eligible costs accepted for beneficiary B at payment of the balance: EUR 125 000 (direct costs) + EUR 31 250 (25% flat rate for indirect costs) = EUR 156 250

Eligible costs accepted for beneficiary C at payment of the balance: EUR 120 000 (direct costs) + EUR 30 000 (25% flat rate for indirect costs) = EUR 150 000

Final grant amount at payment of the balance (action properly implemented, no receipt): EUR 187 500 + EUR 156 250 + EUR 150 000 = EUR 493 750

An audit concluded that the direct costs of beneficiary A were not eligible for an amount of EUR 30 000

Revised grant amount for beneficiary A:

EUR 150 000 – EUR 30 000 = EUR 120 000 + EUR 30 000 (25% flat rate for indirect costs) = EUR 150 000

The share of Beneficiary A in the final grant amount = EUR 187 500.

The EU contribution that will be recovered from beneficiary A: EUR 187 500 — EUR 150 000 = EUR 37 500.

The EU contributions of the other beneficiaries are unchanged.

ARTICLE 43 — REDUCTION OF THE GRANT

ARTICLE 43 — REDUCTION OF THE GRANT

43.1 Conditions

The *[Commission][Agency]* may — **after termination of the participation of a beneficiary, at the payment of the balance** or **afterwards** — reduce the grant amount (see Article 5.1), if:

(a) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles) or

(b) a beneficiary (or a natural person who has the power to represent or take decision on its behalf) 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 22.5.2).

43.2 Amount to be reduced — Calculation — Procedure

The amount of the reduction will be proportionate to the seriousness of the errors, irregularities or fraud or breach of obligations.

Before reduction of the grant, the *[Commission][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 *[Commission][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 21).

43.3 Effects

If the *[Commission][Agency]* reduces the grant **after termination of the participation of a beneficiary**, it will calculate the reduced grant amount for that beneficiary and then determine the amount due to that beneficiary (see Article 50.2 and 50.3).

If the *[Commission][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 21.4).

If the *[Commission][Agency]* **redu**ces the grant **after the payment of the balance**, it will calculate the revised final grant amount for the beneficiary concerned (see Article 5.4). If the revised final grant amount for the beneficiary concerned is lower than its share of the final grant amount, the *[Commission][Agency]* will recover the difference (see Article 44).

1. Grant reduction

If the Commission/Agency finds *(in particular, following a check, audit, extension of audit findings, review or OLAF investigation)* **substantial errors, irregularities or fraud** or **breach of obligations** (under the GA or during the award procedure; *e.g. the action has not been properly implemented)*, it may reduce the grant amount— in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations.

⚠ **Grant reductions** will be made (at the end of the action) for substantial errors, irregularities or fraud or serious breach of obligations, in proportion to the seriousness of the error, irregularity, fraud or breach *(e.g. in case of fraud the reduction may be up to a 100%)*.

⚠ If the issues are found before the end of the action, the beneficiaries must take all possible corrective steps to bring the action implementation back into line with the GA.

Grounds for grant reduction (Commission/Agency):

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The Commission/Agency may make a grant reduction, if a beneficiary has committed substantial errors, irregularities or fraud or serious breach of obligations — either during the award procedure or under the GA.

  Example: *false declarations in the proposal form, in order to obtain EU funding*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The Commission/Agency may also make a grant reduction, if such substantial errors, irregularities or fraud or serious breach of obligations were found in *other* grants, if:

  - the other grants were awarded under similar conditions and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

3.0 Reduction for substantial errors, irregularities or fraud was introduced as explicit contractual ground with GA version 3.0. For older grant agreements, grant reduction on these grounds was however also possible directly on the basis of Article 135(4) and (5) of the Financial Regulation No 966/2012 (and in very exceptional cases involving fraud schemes also on the basis of Article 1116 of the Belgian Code Civil — as annulation ab initio pour dol[61]).

Grant reduction can take place:

- after beneficiary termination
- at the payment of the balance or
- after the payment of the balance.

3.0 Reduction at beneficiary termination was introduced explicitly with GA version 3.0. For older grant agreements, there is NO grant reduction at beneficiary termination for serious breach of

[61] See judgment of 12 July 2016, Commission/Thales, T-326/13, points 119-128.

contract (since explicitly NOT foreseen). By contrast, grant reduction at beneficiary termination is possible for substantial errors, irregularities or fraud — directly on the basis of Article 135(4) and (5) of the Financial Regulation No 966/2012 *(see above)*.

A grant reduction can also be imposed on beneficiaries not receiving EU funding *(e.g. for improper implementation by the beneficiary; see Article 9)*.

2. Procedure

The Commission/Agency will follow a **contradictory procedure** (for the basic contradictory procedure, *see Article 42*).

Depending on the moment the reduction takes place, this procedure will be directed either at the **coordinator** or the **beneficiary concerned**:

- for reductions after beneficiary termination: normally with the beneficiary concerned
- for reductions at payment of the balance: normally the coordinator
- for reductions after payment of the balance:
  - normally the beneficiary concerned, if the finding of improper implementation or breach concerns a beneficiary
  - normally the coordinator, if the finding cannot be linked to one (or more) specific beneficiaries (and therefore concerns the consortium).

If it is directed at the coordinator, the coordinator must immediately inform the beneficiaries concerned offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments. It must also inform the other beneficiaries.

If it is directed at the beneficiary, the Commission/Agency will inform the coordinator in copy (in a way that preserves confidentiality).

Information obligation — Beneficiaries normally do not have to inform their coordinators or ask them to submit comments. However, they should inform them, if there is the risk of a significant impact on the action *(see Article 17.2)*.

3. Grant reduction after beneficiary termination

If the Commission/Agency reduces the grant **after beneficiary termination**, it will calculate the reduction at beneficiary-level and calculate the **amount due** to the beneficiary *(see Articles 50.2 and 50.3)*.

If the amount which is due to the beneficiary is lower than the (pre-financing and interim) payments received by the beneficiary, the Commission/Agency will **recover** the difference *(see Article 44)*.

Recovery at beneficiary termination during an ongoing action means that the beneficiary should pay back the amount to the *consortium*. If it doesn't, the Guarantee Fund will intervene and the Commission/Agency will then recover the amount for the Guarantee Fund.

4. Grant reduction at the payment of the balance

If the Commission/Agency reduces the grant at the **payment of the balance**, it will make the reduction at action-level and calculate the balance to be paid to the consortium (i.e. final grant amount) accordingly.

Example for calculating a reduction at the payment of the balance:

Consortium with a maximum grant amount of EUR 3 000 000 (100% reimbursement rate)

Pre-financing: EUR 750 000

Interim payments: EUR 1 500 000

Eligible costs accepted at the time of payment of the balance: EUR 2 900 000

The Commission carried out a review which demonstrates that some work packages were not carried out and only 80% of the action was carried out. Following the review, the Commission reduces the maximum grant amount by 20 % (EUR 600 000) because of improper implementation and notifies the consortium via a pre-information letter notified to the coordinator.

Reduced maximum grant amount at the payment of the balance: EUR 3 000 000 – EUR 600 000 = EUR 2 400 000

Final grant amount: Lower between EUR 2 900 000 and EUR 2 400 000 = EUR 2 400 000

Payments already made (pre-financing + interim) EUR 2 250 000 = EUR 750 000 + EUR 1 500 000

Amounts due as payment of the balance: EUR 150 000 (EUR 2 400 000 – EUR 2 250 000)

5. Grant reduction after payment of the balance

The financial consequences of a grant reduction **after the payment of the balance** will be calculated at beneficiary level for each beneficiary concerned.

The 'beneficiaries concerned' are those who have committed irregularities, errors or fraud or have breached their obligations *(for example, improperly implemented the action, submitted false information, failed to submit required information or breached the ethical principles)* resulting in the reduction.

Procedure for reduction of the grant after payment of the balance:

The Commission/Agency:

Step 1 — Determines the amount to be reduced (in proportion to the seriousness of the errors, irregularities or fraud or the breach of obligations).

Step 2 — Identifies the beneficiaries in fault and allocates that amount among them according to their responsibility in the errors, irregularities or fraud or breach of obligation.

If the breach of obligation cannot be linked to one or more specific beneficiaries (and therefore concerns the whole consortium) each beneficiary will have to bear a pro-rata share of the reduction.

For each of those beneficiaries (the 'beneficiaries concerned'):

Step 3 — Determines the beneficiary's **share in the final grant amount'**, as follows:

{{total accepted eligible costs for the beneficiary x reimbursement rate}[62]

divided by

{sum of total accepted eligible costs x reimbursement rate, for each beneficiary}[63]

multiplied by

the final grant amount before the reduction (see Article 5.3)}

Step 4 — Calculates the beneficiary's **revised final grant amount** as follows:

{total accepted eligible costs for the beneficiary x reimbursement rate}[64] – amount of reduction allocated to the beneficiary under step 2

[62] Plus the same formula applied to third parties linked to the beneficiary (if any).
[63] Including linked third parties.

Step 5 — If **revised final grant amount < share in the final grant amount**, the Commission / Agency will recover the difference from the beneficiary.

Example for calculating a reduction linked to (one or more) specific beneficiaries:

Innovation action with beneficiaries: X, Y and Z. Beneficiaries X and Z are non-profit legal entities with a 100% reimbursement rate. Maximum grant amount = EUR 2 900 000.

Situation at payment of the balance:

	Data source		*Beneficiary X*	*Beneficiary Y*	*Beneficiary Z*	*Total*
	Annex 2 (estimated budget)	*Estimated costs budgeted*	*700 000*	*2 000 000*	*800 000*	*3 500 000*
A		*Reimbursement rate (%)*	***100***	***70***	***100***	
B		*Maximum grant amount according to costs budgeted*				*2 900 000*
C	*Final financial statements*	*Beneficiary's total accepted eligible costs*	*825 000*	*1 850 000*	*800 000*	*3 475 000*
D	*First step for the calculation of the "Final Grant Amount (Article 5.3.1)*	*Beneficiary's total accepted costs x reimbursement rate (C x A)*	*825 000*	*1 295 000*	*800 000*	*2 920 000**

** The final grant amount is capped at EUR 2 900 000 (maximum grant amount). Even if D results in a higher amount, the Commission/Agency can never pay more than the maximum grant amount set in the GA.*

Following a review after the payment of the balance, the Commission decides to reduce the grant due to improper implementation because some of the action tasks were not carried out.

Step 1 Reduction of the maximum grant amount:

The Commission decides on the amount to be reduced in proportion to the improper implementation identified

Example: *the Commission decides to reduce the maximum grant amount by EUR 300 000.*

Step 2 Identification of the beneficiaries concerned and allocation of the amount to be reduced:

The review concluded that the improper implementation was due to the fact that beneficiary X carried out only part of its tasks as set out in Annex 1. Therefore, the reduction is allocated in full to beneficiary X (see F below).

Step 3 Beneficiary's share in the final grant amount:

E	*Beneficiary's share in final grant amount*	*819 349***	*1 286 130*	*794 521*	*2 900 000*

*** Calculation: [(825 000 x 100 %) / 2 920 000] X 2 900 000*

Step 4 Calculation of the revised final grant amount:

[64] Plus the same formula applied to third parties linked to the beneficiary (if any).

		Beneficiary X	*Beneficiary Y*	*Beneficiary Z*	*Total*
F	*Part of the reduction allocated to the beneficiary*	*300 000*	*0*	*0*	*300.000*
G	*Beneficiary's revised final grant amount (D - F)*	*525 000*	*1 295 000*	*800 000*	*2 620 000*

Step 5 Calculation of the recovery:

	Amount to be recovered (E – G)	*294 349*	*0*	*0*	*294 349*

The amount to be recovered is less than the amount reduced because of the overspending (eligible costs that were declared but not taken into account at payment of the balance because of the capping at maximum grant amount).

For recovery (see Article 44.1.3)

Example for calculating a reduction NOT linked to (one or more) specific beneficiaries:

Same example as above except that the reduction is not linked to specific beneficiaries.

The review concluded that the improper implementation was due to the consortium as a whole and cannot be attributed to (one or more) specific beneficiaries. The amount to be reduced is therefore allocated evenly among the beneficiaries (300 000 / 3 = 100 000; see F below).

Step 3 Beneficiary's share in the final grant amount:

E	*Beneficiary's share in final grant amount*	*819 349***	*1 286 130*	*794 521*	*2 900 000*

*** Calculation: [(825 000 x 100 %) / 2 920 000] X 2 900 000*

Step 4 Calculation of the revised final grant amount:

		Beneficiary X	*Beneficiary Y*	*Beneficiary Z*	*Total*
F	*Part of the reduction allocated to the beneficiary*	*100 000*	*100 000*	*100 000*	*300 000*
G	*Beneficiary's revised final grant amount (D - F)*	*725 000*	*1 195 000*	*700 000*	*2 620 000*

Step 5 Calculation of the recovery:

	Amount to be recovered (E – G)	*94 349,32*	*91 130,14*	*94 520,55*	*280 000*

For recovery (see Article 44.1.3)

ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

44.1 Amount to be recovered — Calculation — Procedure

The *[Commission][Agency]* will — after **termination of the participation of a beneficiary**, at the **payment of the balance** or **afterwards** — claim back any amount that was paid but is not due under the Agreement.

Each beneficiary's financial responsibility in case of recovery is limited to its own debt ***[OPTION if Article 14 applies:*** *(including undue amounts paid by the [Commission][Agency] for costs declared by its linked third parties)****]***, except for the amount retained for the Guarantee Fund (see Article 21.4).

MULTI-BENEFICIARY: 44.1.1 Recovery after termination of a beneficiary's participation

If recovery takes place after termination of a beneficiary's participation (including the coordinator), the *[Commission][Agency]* will claim back the undue amount from the beneficiary concerned by formally notifying it a debit note (see Article 50.2 and 50.3). This note will specify 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 will **recover** the amount:

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

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

(b) ***[OPTION 1 if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated, for the linked third party, in the estimated budget (see Annex 2) and/or****][OPTION 2:*** *not applicable;****]***

(c) by **taking legal action (see Article 57)** or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[, Article 106a of the Euratom Treaty]* and Article 79(2) of the Financial Regulation No 966/2012.

If payment is not made by the date specified 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 21.11, 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[55] applies.

44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the *[Commission][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;

[55] Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 05.12.2007, p. 1).

- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund;
- requesting the coordinator to submit a report on the distribution of payments to the beneficiaries within 30 days of receiving notification, and
- inviting the coordinator to submit observations within 30 days of receiving notification.

If no observations are submitted or the *[Commission][Agency]* decides to pursue recovery despite the observations it has received, it will **confirm recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the coordinator a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. This note will also specify the terms and the date for payment.

If the coordinator does not repay the *[Commission][Agency]* by the date in the debit note and has not submitted the report on the distribution of payments: the *[Agency or the] Commission* will **recover** the amount set out in the debit note from the coordinator (see below).

If the coordinator does not repay the *[Commission][Agency]* by the date in the debit note, but has submitted the report on the distribution of payments: the *[Commission][Agency]* will:

(a) identify the beneficiaries for which the amount calculated as follows is negative:

{{{{beneficiary's costs declared in the final summary financial statement and approved by the *[Commission][Agency]* multiplied by the reimbursement rate set out in Article 5.2 for the beneficiary concerned

[plus

its linked third parties' costs declared in the final summary financial statement and approved by the [Commission][Agency] multiplied by the reimbursement rate set out in Article 5.2 for each linked third party concerned]}

divided by

the EU contribution for the action calculated according to Article 5.3.1}

multiplied by

the final grant amount (see Article 5.3)**}**,

minus

{pre-financing and interim payments received by the beneficiary}**}**.

(b) formally notify to each beneficiary identified according to point (a) a **debit note** specifying the terms and date for payment. The amount of the debit note is calculated as follows:

{{amount calculated according to point (a) for the beneficiary concerned

divided by

the sum of the amounts calculated according to point (a) for all the beneficiaries identified according to point (a)}

multiplied by

the amount set out in the debit note formally notified to the coordinator}.

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

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

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the] Commission* will formally notify the beneficiary concerned the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION*** 1 ***if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated, for the linked third party, in the estimated budget (see Annex 2) and/or****][OPTION 2:*** *not applicable****];***

(ii) by **taking legal action** (see Article 57) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[, Article 106a of the Euratom Treaty]* 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 21.11, 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.

MULTI-BENEFICIARY: 44.1.3 <u>Recovery of amounts after payment of the balance</u>

If, for a beneficiary, the revised final grant amount (see Article 5.4) is lower than its share of the final grant amount, it must repay the difference to the *[Commission][Agency]*.

The beneficiary's share of the final grant amount is calculated as follows:

{{{beneficiary's costs declared in the final summary financial statement and approved by the *[Commission][Agency]* multiplied by the reimbursement rate set out in Article 5.2 for the beneficiary concerned

[plus

its linked third parties' costs declared in the final summary financial statement and approved by the [Commission][Agency] multiplied by the reimbursement rate set out in Article 5.2 for each linked third party concerned]}

divided by

the EU contribution for the action calculated according to Article 5.3.1}

multiplied by

the final grant amount (see Article 5.3)**}**.

If the coordinator has not distributed amounts received (see Article 21.7), the *[Commission][Agency*] will also recover these amounts.

The *[Commission][Agency]* will formally notify a **pre-information letter** to the beneficiary concerned:

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

If no observations are submitted or the *[Commission][Agency]* decides to pursue recovery despite the observations it has received, it will **confirm** the amount to be recovered and formally notify to the 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]* Commission will **recover** the amount:

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

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the] Commission* will formally notify the beneficiary concerned the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION** 1 **if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:** if a linked third party has accepted joint and several liability (see Article 14), by **holding the third party liable** up to the maximum EU contribution indicated, for the linked third party, in the estimated budget (see Annex 2) and/or**] [OPTION 2:** not applicable**]***

(ii) by **taking legal action (**see Article 57) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[Article 106a of the Euratom Treaty]* 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 21.11, 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

MONO-BENEFICIARY: 44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

MONO-BENEFICIARY: 44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the *[Commission][Agency]* will formally notify a '**pre-information letter**' to the beneficiary:

[…]

MULTI-BENEFICIARY: 44.1.3 Recovery of amounts after payment of the balance

If, for a beneficiary, the revised final grant amount (see Article 5.4) is lower than its share of the final grant amount, it must repay the difference to the *[Commission][Agency]*.

[…]

1. Recovery of undue amounts

If it turns out that — due to early termination, cost rejection or grant reduction *(in particular, following a check, audit, extension of audit findings, review or OLAF investigation)* — the Commission/Agency has **paid too much**, it will recover the amount that is undue.

The Commission/Agency will **recover** the undue amounts from the beneficiary that owes the money (i.e. with a debt towards the Commission/Agency).

In case of recovery, each beneficiary's financial responsibility is normally limited to **its own debt** (including undue amounts paid for costs declared by **its linked third parties**, if any). Only the responsibility for the amount retained for the Guarantee Fund (i.e. the 5% withheld from the pre-financing; *see Article 21.4*) is shared.

If the Commission/Agency has requested **joint and several liability** of a **linked third party** *(see Article 14)*, it may recover also from the linked third party. The linked third party's financial responsibility (for the debt of the beneficiary) is limited to its maximum EU contribution in Annex 2.

Grounds for recovery (Commission/Agency):

- Commission/Agency **paid too much**

  The Commission/Agency will make a recovery, if the amounts paid out exceed the amounts that are due for the grant.

Recovery normally takes place only at payment of the balance or afterwards. Exceptionally, it can take place before, if a beneficiary's participation is terminated.

2. Procedure

The basic procedure for recovery is almost always the same: After a **contradictory procedure**, the Commission/Agency claims repayment of the amounts and then enforces recovery.

Basic recovery procedure:

Step 1 — **Contradictory procedure**

The Commission/Agency informs the coordinator/beneficiary concerned of its intention to recover undue amounts (and their amount and the reasons why), in a **pre-information letter**.

The coordinator/beneficiary concerned has **30 days** to submit observations.

Step 2 — **Confirmation of recovery**

The Commission/Agency examines the observations and either stops the procedure or **confirms** the recovery and issues a **debit note** against the coordinator/beneficiary concerned.

The coordinator/beneficiary concerned must pay by the date specified in the debit note.

Step 3 — **Recovery**

If the coordinator/beneficiary concerned does not pay by this date, the Commission or the Agency will **recover** the amount (with interest at the rate set out in Article 21.11), in one of the following ways:

– by **offsetting** it[65]

'Offsetting' means to deduct the amount the debtor owes to the Commission/Agency from another amount that the Commission/Agency owes to debtor. With the offsetting both amounts are considered paid.

⚠ **Offsetting** is normally implemented as a **public law measure** (i.e. directly on the basis of Article 80(1) of the the Financial Regulation No 966/2012). Therefore, the dispute settlement normally follows the public law remedies (i.e. Article 263 TFEU action; *see Article 57.2*).

For the cases not covered by the Financial Regulation, offsetting will — exceptionally — be implemented as a purely **contractual measure** *(e.g. offsetting with Commission and Agency claims, offsetting against international organisations)*. In this case, the normal contractual means for dispute settlement apply (i.e. Article 272 TFEU action, arbitration, etc.; *see Article 57.2*).

Normally, offsetting is carried out *after* the payment deadline has expired. However, in exceptional circumstances, the Commission or the Agency may offset before this date, in order to safeguard the EU financial interests.[66]

If the offsetting takes place after the deadline for payment has expired, the interest must also be offset. (The interest is normally offset first, before the principal amount).

– by drawing on the Guarantee Fund and then follow it with the **debit note on behalf of** the **Guarantee Fund** (to continue the recovery procedure):

  – if the Commission/Agency has requested joint and several liability from a linked third party: by **holding** the **linked third party liable**

  or

  – by either:

    – taking **legal action** in a national court or the European Court of Justice *(see Article 57.2)* or

    – adopting a **decision** that is **enforceable** within the meaning of Article 299 TFEU[67].[68]

      The decision describes the claim and its grounds, notes that the debtor has not paid (despite having been sent a debit note and reminders) and indicates the amount of the debt.

⚠ Enforceable decisions are **public law measures** (i.e. taken directly on the basis of Article 79(2) of the Financial Regulation No 966/2012). Therefore, the dispute settlement normally follows the public law remedies (i.e. Article 263 TFEU action; *see Article 57.2*).

---

65 *See Article 80(1) of the Financial Regulation No 966/2012.*

66 *See Article 87 of the Rules of Application Regulation No 1268/2012.*

67 *See Article 299 TFEU:* Acts of the Council, the Commission or the European Central Bank which impose a pecuniary obligation on persons other than States, shall be enforceable. Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice of the European Union. When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. Enforcement may be suspended only by a decision of the Court. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

68 *See Article 79(2) of the Financial Regulation No 966/2012.*

This decision — duly endorsed with the order for enforcement issued by the competent authority in the Member State concerned — allows to have the debtor's **assets seized**.

The contradictory procedure will normally be **combined** with the **contradictory procedure** for cost rejection and/or grant reduction (if any).

3. Recovery after beneficiary termination

The Commission/Agency will recover **after beneficiary termination**, if the beneficiary did not pay back to the coordinator the amounts it received in excess and — following this — the Guarantee Fund had to intervene *(see Article 50)*.

4. Recovery at the payment of the balance

The Commission/Agency will recover at the **payment of the balance**, if the sum of the pre-financing and the interim payments exceeds the final grant amount *(see Article 21.4)*.

Procedure for recovery (at payment of the balance):

Step 1 — Contradictory procedure with coordinator *(see above point 2)* and request to submit the report on the distribution of payments.

Step 2 — Confirmation of recovery *(see above point 2)*, together with notification of the amounts due *(see Article 21.5)*

Step 3 — Release of the amounts retained for the Guarantee Fund. The Commission/Agency will **deduct** the amount the consortium owes from the **contribution to the Guarantee Fund** that needs to be reimbursed to the consortium.

If, after the debt is deducted, the difference is positive (i.e. part of the amount retained for the Guarantee Fund must be reimbursed) or if the result equals zero, the recovery process ends.

Step 4 — If the difference is negative (i.e. if the amount retained for the Guarantee Fund was not sufficient to cover the consortium's debt to the Commission/Agency and there is still an amount to be recovered), the Commission/Agency will send the coordinator a **debit note** for the amount still to be recovered.

If the coordinator pays the debt by the date specified in the debit note the recovery process ends.

Step 5a — If the coordinator does not repay the Commission/Agency by the date specified AND if it has not submitted the report on the distribution of payments: the Commission/Agency will **recover** the amount **from the coordinator** alone.

For the rest of the procedure, *see point 2*.

Step 5b — If the coordinator does not repay the Commission/Agency by the date specified, BUT has submitted the report on the distribution of payments, the Commission/Agency will:

- identify the beneficiaries that received funds in excess and
- calculate the amount each beneficiary owes to the Commission/Agency.

In order to **identify the beneficiaries that received funds in excess**, the amount each beneficiary *actually* received (as established on the basis of the report on the distribution of payments) is compared to its share of the final grant amount (as established on the basis of the accepted eligible costs in the final summary financial statement).

The **share in the final grant amount** is calculated by dividing the maximum EU contribution for the beneficiary (on the basis of the accepted eligible costs of the

final summary financial statement) by the total maximum EU contribution for the consortium and by applying the percentage obtained to the final grant amount.

In practice:

- **for underspent GAs:** it equals the eligible costs declared by the beneficiary (and approved by the Commission) multiplied by its reimbursement rate

  'Underspent GA' means a GA for which the EU contribution (calculated in accordance with *Article 5.3.1)* is lower than the maximum grant amount set out in Article 5.1 (In other words: a GA where the consortium declared less costs than could have been reimbursed.)

- **for overspent GAs:** each beneficiary's maximum EU contribution must therefore be adjusted to bring it into line with the maximum grant amount. This adjustment is done in proportion to the eligible declared costs approved by the Commission/Agency *(see calculation in the example below)*.

  'Overspent GA' means a GA for which the EU contribution calculated in accordance with Article 5.3.1 exceeds the maximum grant amount set out in Article 5.1. (In other words: a GA where the consortium declared more costs than could be reimbursed.)

In order to **calculate the amount each beneficiary owes** (i.e. to distribute the debt among the beneficiaries that received funds in excess) the amount to be recovered will be split between the beneficiaries that have received payments in excess, in proportion to their relative share of the total payments in excess.

Step 6 — The Commission/Agency will cancel the debit note sent to the coordinator and send a debit note to each beneficiary that received funds in excess — for its proportional share in the debt to the Commission/Agency.

For the rest of the procedure, *see point 2*.

Example for calculating a recovery at the payment of the balance:

GA with a maximum grant amount of EUR 3 000 000 and with a reimbursement rate: 100 %
Four beneficiaries: A (coordinator), B, C, D

According to the estimated budget in Annex 2, the four beneficiaries were entitled to a maximum contribution for carrying out their part of the action set out in Annex 1 of EUR 800 000 (A); EUR 1200 000 (B); EUR 600 000 (C); EUR 400 000 (D)

Total eligible costs approved by the Commission: EUR 2 430 000

Final grant amount: EUR 2 430 000

EU contribution per beneficiary based on the accepted eligible costs: A: EUR 600 000; B: EUR 1 100 000; C: EUR 400 000; D: EUR 330 000

Payments made by the Commission (pre-financing and interim payments): EUR 2 700 000 (limit of 90 % of the maximum grant amount).

Amount to be recovered: EUR 2 700 000 minus EUR 2 430 000 = EUR 270 000.

Amount retained for the Guarantee Fund (5 % of the maximum grant amount; see Article 21.2) = EUR 150 000. Payment effectively transferred to the coordinator: EUR 2 550 000 = EUR 2 700 000 - EUR 150 000

A pre-information letter is sent to the coordinator (beneficiary A) informing it that the Commission intends to recover EUR 270 000. No observations are made by the consortium, and the Commission confirms the amount.

The Commission deducts the amount it needs to recover from the consortium from the amount retained for the Guarantee Fund that needs to be reimbursed to the consortium (EUR 150 000).

*The difference of EUR 120 000 needs to be recovered and the **Commission sends a debit note for that amount**.*

The coordinator does not reimburse the Commission and sends the report on the distribution of the payments among beneficiaries:

A= EUR 400 000; B= EUR 1 200 000; C = EUR 600 000; D= EUR 350 000.

Identification of the beneficiaries that received funds in excess:

Coordinator A: share in the final grant: EUR 600 000; received EUR 400 000 (no payment in excess);

Beneficiary B: share in the final grant: EUR 1 100 000; received EUR 1 200 000 (payment in excess of 100 000)

Beneficiary C: share in the final grant: EUR 400 000; received EUR 600 000 (payment in excess of 200 000);

Beneficiary D: share in the final grant: EUR 330 000; received EUR 350 000 (payment in excess of 20 000).

Beneficiaries B, C and D received payments in excess of their EU contribution and will have to reimburse the Commission.

Distribution of the debt to be reimbursed among the beneficiaries that have received payments in excess:

The distribution of the final debt towards the Commission will be made in proportion to the payments in excess received by each beneficiary compared to the total payments made in excess.

Total payments made in excess = 320 000.

Beneficiary B's share of the payments in excess: 100 000/320 000 = 31.25 %.

Beneficiary C's share of the payments in excess: 200 000/320 000 = 62.5 %.

Beneficiary D's share of the payments in excess: 20 000/320 000 = 6.25 %.

***The Commission will notify three debit notes for a cumulative amount of EUR 120,000** (270,000 – 150,000): beneficiary B with a debit note for the amount of 31.25 % x 120 000 = 37 500; beneficiary C for the amount of 62.5 % x 120 000 = 75 000; beneficiary D for the amount of 6.25 % x 120 000 = 7 500.*

Beneficiary A will have to recover the money owed to it from the other beneficiaries in the consortium.

5. Recovery after payment of the balance

The Commission/Agency will recover **after payment of the balance**, if — due to cost rejection or grant reduction *(in particular, following a check, audit, extension of audit findings or OLAF investigation)* — it finds out that it has paid too much (or that the coordinator has not distributed the payments received).

Procedure for recovery after payment of the balance (due to cost rejection):

Step 1 — The Commission/Agency calculates a **revised final grant amount** for the beneficiary concerned *(see Article 42)*

Step 2 — The Commission/Agency calculates the **amount to be recovered,** by comparing the revised final grant amount for the beneficiary concerned with its share of the final grant amount.

The **share of the final grant amount** is calculated by dividing the maximum EU contribution for the beneficiary (on the basis of the accepted eligible costs of the final summary financial statement) by the total maximum EU contribution for the consortium and by applying the percentage obtained to the final grant amount.

In practice:

- **for underspent GAs:** it equals the eligible costs declared by the beneficiary (and approved by the Commission) multiplied by its reimbursement rate

  'Underspent GA' means a GA for which the EU contribution (calculated in accordance with *Article 5.3.1)* is lower than the maximum grant amount set out in Article 5.1 (In other words: a GA where the consortium declared less costs than could have been reimbursed.)

- **for overspent GAs:** each beneficiary's maximum EU contribution must therefore be adjusted to bring it into line with the maximum grant amount. This adjustment is done in proportion to the eligible declared costs approved by the Commission/Agency *(see calculation in the example below)*.

  'Overspent GA' means a GA for which the EU contribution calculated in accordance with Article 5.3.1 exceeds the maximum grant amount set out in Article 5.1. (In other words: a GA where the consortium declared more costs than could be reimbursed.)

Step 3 — If **revised final grant amount < share of the final grant amount**, the Commission/Agency will recover the difference from the beneficiary.

Procedure for recovery after payment of the balance (due to grant reduction):

Step 1 — The Commission/Agency calculates a **revised final grant amount** for the beneficiary concerned *(see Article 43)*

Step 2 — The Commission/Agency will calculate the **amount to be recovered** by comparing the revised final grant amount for the beneficiary concerned with its **share of the final grant amount** *(see point 4)*.

Step 3 — If **revised final grant amount < share of the final grant amount**, the Commission/Agency will recover the difference from the beneficiary.

For the rest of the procedure, *see point 2*.

Example for calculating a recovery after payment of the balance (underspent GA):

Action with three beneficiaries (A, B and C) and a reimbursement rate of 100 %.

Maximum grant amount: EUR 500 000

Eligible costs accepted for beneficiary A at payment of the balance: EUR 150 000 (direct costs) + EUR 37 500 (25 % flat rate for indirect costs) = EUR 187 500

Eligible costs accepted for beneficiary B at payment of the balance: EUR 125 000 (direct costs) + EUR 31 250 (25 % flat rate for indirect costs) = EUR 156 250

Eligible costs accepted for beneficiary C at payment of the balance: EUR 120 000 (direct costs) + EUR 30 000 (25 % flat rate for indirect costs) = EUR 150 000

Final grant amount at payment of the balance: EUR 187 500 + EUR 156 250 + EUR 150 000 = EUR 493 750

An audit concluded that the direct costs of beneficiary A were not eligible for an amount of EUR 30 000.

Revised grant amount for beneficiary A:

(Revised direct costs: EUR 150 000 — EUR 30 000 = EUR 120 000) + EUR 30 000 (25 % flat rate for indirect costs) = EUR 150 000.

The share of beneficiary A in the final grant amount = EUR 187 500.

The amount to be recovered from beneficiary A: EUR 187 500 — EUR 150 000 = EUR 37 500.

The EU contributions of the other beneficiaries remain unchanged.

Example for calculating a recovery after payment of the balance (overspent GA):

Maximum grant amount: EUR 500 000; Three beneficiaries A, B and C

Estimated budget indicated in Annex 2: A: EUR 200 000; B: EUR 100 000; C: EUR 200 000

Reimbursement rate for all the beneficiaries: 100%

Direct eligible costs approved for Beneficiary A at the payment of balance: EUR 160 000 (direct costs) + EUR 40 000 (indirect costs) =EUR 200 000

Direct eligible costs approved for Beneficiary B at the payment of balance: EUR 120 000 (direct costs) + EUR 30 000 (indirect costs) =EUR 150 000

Direct eligible costs approved for Beneficiary C at the payment of balance: EUR 200 000 (direct costs) + EUR 50 000 (indirect costs) =EUR 250 000

Total eligible costs of the consortium approved by the Commission = EUR 600 000

Difference between the maximum grant amount and the approved eligible costs= EUR 600 000 - 500 000 = EUR 100 000

Limit to the maximum grant amount: Final grant amount = EUR 500 000

An audit after payment of the balance concluded that direct costs claimed by beneficiary A are not eligible for an amount of EUR 30 000.

Another audit concluded that direct costs claimed by beneficiary C are not eligible for an amount of EUR 20 000.

Calculation of each beneficiary's share in the final grant amount:

*<u>Beneficiary's accepted costs multiplied by the reimbursement rate (100%)</u> * final grant amount (500 000)*

Total accepted costs for the action according to Article 5.3.1 (EUR 600 000)

Beneficiary A's share in the final grant amount = (200 000/600 000) x 500 000 = EUR 166 667

Beneficiary B's share in the final grant amount = (150 000/600 000) x 500 000 = EUR 125 000

Beneficiary C's share in the final grant amount = (250 000/600 000) x 500 000 = EUR 208 333

Calculation of the revised grant amount after the audits:

The revised final grant amount is calculated as follows:

For beneficiary A: (Revised direct costs: 160 000 – 30 000 = 130 000) + 32 500 (indirect costs) = EUR 162 500

For beneficiary C: (Revised direct costs: 200 000 – 20 000 = 180 000) + 45 000 (indirect costs) = EUR 225 000

Calculation of the amount to be recovered:

The amount to be recovered is calculated on the basis of the beneficiary's share in the final grant amount and neither on the basis of the reported eligible costs nor on the basis of the amounts actually received from the coordinator.

Amount to be recovered per beneficiary = share in the final grant amount - revised final grant amount

For beneficiary A: EUR 166 667-162 500 = EUR 4 167 will be recovered

For beneficiary C: EUR 208 333- EUR 225 000 = - EUR 16 667. Since for beneficiary C the revised final grant amount is greater than the share in the final grant amount (in other terms, the revised eligible costs still justify the share in the final grant amount), nothing will be recovered.

Specific case (recoveries):

International organisations — Enforceable decisions under Article 299 TFEU (and other public law decisions) will NOT be taken against international organisations, where this would be contrary to the privileges and immunities accorded by their constituent documents or international law *(see Article 53.2)*.

Offsetting is — by contrast — a measure that may be taken in relation to international organisations, however NOT as public law measure (i.e. not on the basis of Article 80(1) of the Financial Regulation No 966/2012), but as a purely contractual measure (i.e. on the basis of Article 44 of the GA). Offsetting for international organisations will therefore be subject to the contractual means for dispute settlement (i.e. arbitration; *see Article 57.2*).

ARTICLE 45 — ADMINISTRATIVE AND FINANCIAL PENALTIES

ARTICLE 45 — ADMINISTRATIVE SANCTIONS

In addition to contractual measures, the *[Agency or the]* Commission may also adopt administrative sanctions under Articles 106 and 131(4) of the Financial Regulation No 966/2012 (i.e. exclusion from future procurement contracts, grants, prizes and expert contracts and/or financial penalties).

1. Administrative sanctions

If the Commission/Agency finds *(in particular, following a check, audit, review or OLAF investigation)* that a beneficiary is in an exclusion situation under Article 106(1) of the Financial Regulation No 966/2012, it may impose administrative sanctions (— in proportion to the seriousness of the misconduct).

Administrative sanctions (financial penalties and/or exclusion from future procurement contracts, grants and expert contracts) are **public law measures** (i.e. taken directly on the basis of Articles 106 and 131(4) of the Financial Regulation No 966/2012) that may be applied *in addition* to the contractual measures (i.e. cost rejection, grant reduction, recovery, suspension and termination), for **serious misconducts** *(substantial errors, irregularities or fraud, serious breach of obligations, bankruptcy, non-compliance with tax or social security obligations, grave professional misconduct, fraud, corruption, or criminal/illegal activity).*

Examples: *plagiarism; absence of time recording systems (although required); false declaration concerning SME status.*

The **maximum sanctions** are as follows:

- for exclusion: up to **5 years** from the date on which the Commission/Agency establishes the infringement, i.e. confirms the sanction and formally notifies this to the beneficiary.

  If, in that time, the beneficiary commits the same infringement again, the exclusion period may be extended to **10 years**.

- for financial penalties: between **2%** and **10%** of the maximum EU contribution to the beneficiary concerned according to the estimated budget (Annex 2) — depending on the seriousness of the infringement.

  If, within five years of the first infringement being established, the beneficiary commits the same infringement again, the rate may be increased to between **4%** and **20%**.

The decision to apply an administrative sanction may be **published** on the Commission/Agency websites (— together with the name of the person responsible for the misconduct, information on the misconduct and the duration of the exclusion and/or amount of the financial penalty).

When deciding on publishing this information or not, the Commission/Agency will take into account, in particular:

- the seriousness of the misconduct (including impact on the EU's financial interest and image)

- the time that has elapsed since it took place

- the duration and recurrence of the misconduct
- the intention or degree of negligence and
- the measures taken by the beneficiary to remedy the situation.

2. Procedure

The Commission/Agency will follow the procedures set out in 106 of the Financial Regulation No 966/2012 (i.e. **contradictory procedure, panel, decision)**.

If the Commission/Agency imposes a financial penalty, it will also issue a debit note to **recover** the amount.

If the penalty is not paid by the date set out in the debit note, late-payment interest will be added to the amount to be recovered.

However, there is NO:

- intervention of the Guarantee Fund
- joint and several liability of linked third parties.

Specific case (administrative sanctions):

International organisations — Decisions on administrative sanctions (and other public law decisions) will not be taken against international organisations, where this would be contrary to the privileges and immunities accorded by their constituent documents or international law *(see Article 53.2)*.

SECTION 2 LIABILITY FOR DAMAGES

ARTICLE 46 — LIABILITY FOR DAMAGES

SECTION 2 LIABILITY FOR DAMAGES

ARTICLE 46 — LIABILITY FOR DAMAGES

46.1 Liability of the *[Commission][Agency]*

The *[Commission][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 *[Commission][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.

1. Liability for damages (Commission/Agency)

The Commission/Agency can NOT be held liable if — in implementing the GA — its own services cause damage (to a beneficiary or third party).

Moreover, the Commission/Agency can NOT be held liable if — in implementing the GA — a beneficiary or third party involved in the action causes damage (to another beneficiary or third party).

Examples:

1. *An experiment carried out by a beneficiary leads to an accidental escape of pollutants into the local river.*

2. *A fire breaks out in a beneficiary's laboratory in the course of an experiment for the action.*

Subsidiary (secondary) liability is also excluded.

Non-liability extends to damages caused by third parties involved in the action (i.e. linked third parties, third parties providing in-kind contributions, subcontractors etc.; *see Article 8*).

46.2 Liability of the beneficiaries

Except in case of force majeure (see Article 51), the beneficiaries must compensate the *[Commission][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.

1. Liability for damages (beneficiaries)

If a beneficiary causes damage to the Commission/Agency (in implementing the action), the Commission/Agency may claim compensation).

Examples:

1. *Costs of legal proceedings borne by the Commission.*

2. *At a meeting on Commission premises, a beneficiary smokes and causes a fire.*

2. Procedure

The Commission/Agency will follow the normal procedure for damages claims (i.e. bringing an action for contractual damages before the European Court of Justice; not direct claim via a debit note).

SECTION 3 SUSPENSION AND TERMINATION

ARTICLE 47 — SUSPENSION OF PAYMENT DEADLINE

SECTION 3 SUSPENSION AND TERMINATION

ARTICLE 47 — SUSPENSION OF PAYMENT DEADLINE

47.1 Conditions

The *[Commission][Agency]* may — at any moment — suspend the payment deadline (see Article 21.2 to 21.4) if a request for payment (see Article 20) cannot be approved because:

(a) it does not comply with the provisions of the Agreement (see Article 20);

(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.

47.2 Procedure

The *[Commission][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 *[Commission][Agency]* (see Article 52).

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 *[Commission][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 20) and the revised report or statement is not submitted or was submitted but is also rejected, the *[Commission][Agency]* may also terminate the Agreement or the participation of the beneficiary (see Article 50.3.1(l)).

1. Suspension of the payment deadline (Commission/Agency)

The Commission/Agency may stop the clock (suspend the deadline) if a payment request cannot be immediately approved, on the grounds listed in this Article.

Suspension of the payment deadline must be **distinguished** from **suspension of payments** *(see Article 48)*. Suspension of the payment deadline is an ad hoc measure regarding the request for payment. Suspension of payments is a measure to avoid making payments to a beneficiary which is, for example, suspected of serious misconducts.

Grounds for suspension of the payment deadline (Commission/Agency):

- **Payment request** does **not comply with** the provisions of the **GA**

  The Commission/Agency may suspend the payment deadline, if the reports (or any of their documents) do not fulfil the requirements set out in Article 20.

Examples: *the certificate on the financial statements does not comply with the template; inconsistencies in the technical report (meaning that the action cannot be assessed); the financial statement contains errors.*

- **Payment request** is **incomplete** or **requires clarification**

  The Commission/Agency may suspend the payment deadline, if the reports (or any of their documents) are incomplete or it needs additional information.

  Examples: *the reports, the certificate on the financial statement or other supporting documents are missing; the information in the periodic technical report is incomplete; additional information on the coordinator's new bank account is needed*

- **Doubts on the eligibility of costs** in the financial statements that require additional verifications

  The Commission/Agency may suspend the payment deadline, if it has doubts *(e.g. due to audit findings in other grants)* on the eligibility of the costs in the financial statements and additional checks, reviews, audits or investigations are needed.

  Example: *The costs claimed in the financial statements are not consistent with the action tasks described in the technical report.*

In practice, suspension is needed if there are issues with the payment request or with the costs declared which make it impossible for the Commission/Agency to comply with the **payment deadline** (i.e. for interim payments and payment of the balance: 90 days after payment request; *see Article 21*).

Suspension **starts** on the day the notification (announcing suspension) is sent to the coordinator (and **ends** on the day it is lifted).

Late payment without suspension of the payment deadline gives rise to late-payment interest for the beneficiaries *(see Article 21.11)*.

2. Procedure

The Commission/Agency will immediately formally notify the coordinator of the suspension of the payment deadline and explain the reasons why.

There is NO *ex ante* contradictory procedure. However, if the suspension exceeds **two months**, the coordinator may ask the Commission/Agency if the suspension is to be continued (i.e. ask to confirm it or lift it).

3. Effects

If the **issues** have been **resolved satisfactorily** *(e.g. the coordinator sent the requested information or re-submitted the report)* or the Commission/Agency has **finished** the necessary **verifications** *(e.g. an audit),* it will lift the suspension and formally notify the coordinator.

Suspension will normally last until it is possible to make all the necessary checks and verifications that are needed for the payment (*e.g. analysis of technical reports and financial statements, eligibility of claimed costs, calculation of amount to be paid, approval and authorisation of payment*).

With the lifting of the suspension, the remaining payment period starts to run again.

If a deadline has been suspended for several reasons, it will be lifted only when the consortium has satisfactorily addressed ALL the reasons.

ARTICLE 48 — SUSPENSION OF PAYMENTS

ARTICLE 48 — SUSPENSION OF PAYMENTS

48.1 Conditions

The *[Commission][Agency]* may — at any moment — suspend payments, in whole or in part and for one or more beneficiaries, if:

(a) a beneficiary (or a natural person who has the power to represent or take decision on its behalf) has committed or is suspected of having committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles) or

(b) a beneficiary (or a natural person who has the power to represent or take decision on its behalf) 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 22.5.2).

If payments are suspended for one or more beneficiaries, the *[Commission][Agency]* will make partial payment(s) for the part(s) not suspended. If suspension concerns the payment of the balance, — once suspension is lifted — the payment or the recovery of the amount(s) concerned will be considered the payment of the balance that closes the action.

48.2 Procedure

Before suspending payments, the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned:

- 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 *[Commission][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 *[Commission][Agency]*.

If the conditions for resuming payments are met, the suspension will be **lifted**. The *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned.

During the suspension, the periodic report(s) for all reporting periods except the last one (see Article 20.3) must not contain any individual financial statements from the beneficiary concerned *[and its linked third parties]*. The coordinator must include them in the next periodic report after the suspension is lifted or — if suspension is not lifted before the end of the action — in the last periodic report.

The beneficiaries may suspend implementation of the action (see Article 49.1) or terminate the Agreement or the participation of the beneficiary concerned (see Article 50.1 and 50.2).

1. Suspension of payments (Commission/Agency)

The Commission/Agency may suspend pre-financing, interim payments or the final payment (for one or more or for all beneficiaries), on the grounds listed in this Article.

⚠ **Suspension of payments** has NO impact on the action implementation. The consortium must continue to work on the action, while addressing the issues that have led to suspension of the payment; costs incurred during suspension of payments are in principle eligible.

Grounds for suspension of payments (Commission/Agency):

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The Commission/Agency may suspend payments, if a beneficiary has committed or is suspected of having committed substantial errors, irregularities or fraud or serious breach of obligations — either during the award procedure or under the GA.

  Example: *false declarations in the proposal form, in order to obtain EU funding*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The Commission/Agency may also suspend payments, if such substantial errors, irregularities- or, fraud or serious breach of obligations were found in *other* grants, if

  - the other grants were awarded under similar conditions and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

  Example: *During an audit of other grants, the Commission detected systemic irregularities in the calculation of personnel costs that also affect all other GAs signed by the audited beneficiary. The Commission may suspend all outstanding payments for the audited beneficiary until the issue is resolved.*

Suspension **starts** on the day the notification (confirming suspension) is sent to the coordinator (and **ends** on the day it is lifted).

If necessary, the consortium may also decide to:

- suspend the GA *(see Article 49)*
- terminate the GA or the participation of the beneficiary concerned *(see Article 50)*.

2. Procedure

Before suspending payments, the Commission/Agency will follow a **contradictory procedure** (for the basic contradictory procedure, see *Article 42*) with the:

- coordinator or
- beneficiary concerned *(e.g. for confidentiality reasons or simultaneous suspension in several grants).*

If it is directed at the coordinator, the coordinator must immediately inform the beneficiaries concerned offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments.

If it is directed at the beneficiary, the Commission/Agency will inform the coordinator separately (in a way that preserves confidentiality).

⚠ **Information obligation** — Beneficiaries do not have to inform their coordinators or ask them to submit comments. However, they should inform them if there is the risk of a significant impact on the action *(see Article 17.2).*

3. Effects

During suspension, NO **individual financial statements** may be submitted for the beneficiary (or beneficiaries) concerned with the periodic reports (except with the report for the last reporting period).

Costs incurred (for continuing to implement the action during suspension) are eligible and may be included in the **next financial report**, after suspension has been lifted. They must be included in the periodic report for the last reporting period (— even if suspension is still ongoing).

Technical reports submitted during suspension must include the work of the beneficiaries concerned.

Example:

1 May: *the Commission informs the coordinator of its intention to suspend interim payments for beneficiary B because an audit for other H2020 grants has detected systematic substantial errors in the calculation of its personnel costs.*

15 May: *the coordinator comments that beneficiary B was not aware of its obligations in this respect.*

1 June: *the Commission rejects the comments and confirms the suspension of payments for beneficiary B.*

1 July: *the coordinator submits all reports except the individual financial statement for beneficiary B (covering an amount of EUR 75 000).*

10 August: *the Commission pays for all beneficiaries except B.*

25 October: *the Commission approves remedial measures taken by beneficiary B (correcting the substantial errors and submitting revised financial statements) and lifts the suspension. The costs of beneficiary B will be submitted in the next reporting period.*

If payments for one (or some) of the beneficiaries are still suspended at the end of the action, the Commission/Agency will make a partial payment of the balance for the amount that is not suspended (— but ONLY after having received all the necessary information for the final calculations for ALL consortium members, i.e. including the suspended beneficiaries).

⚠ The partial final payment is NOT the payment that closes the action. That payment will be made only after the payment suspensions are lifted.

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

49.1 Suspension of the action implementation, by the beneficiaries

49.1.1 Conditions

The beneficiaries may suspend implementation of the action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 51) — make implementation impossible or excessively difficult.

49.1.2 Procedure

The coordinator must immediately formally notify to the *[Commission][Agency]* the suspension (see Article 52), stating:

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

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

Once circumstances allow for implementation to resume, the coordinator must immediately formally notify the *[Commission][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 55) — unless the Agreement or the participation of a beneficiary has been terminated (see Article 50).

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).

1. GA suspension (beneficiaries)

The beneficiaries may suspend the action (in full or in part), on the ground set out in this Article.

GA suspension may be used exceptionally if it is necessary to stop the action implementation, to fix specific problems. It should NOT be used in situations that cannot be resolved through a temporary interruption; in these cases, it may be better to terminate the GA *(see Article 50)*.

Ground for GA suspension (beneficiaries):

- **Action can no longer be implemented (or becomes excessively difficult)**

  The beneficiaries may suspend the action (in full or in part), if implementation becomes impossible or excessively difficult.

  Example: *A fire devastates a beneficiary's laboratory, with most of the technical equipment and computers used for the action and containing the research results. The beneficiaries therefore request that the part of the action that is affected by this is suspended until the laboratory is restored.*

Suspension **starts** on the day the Commission/Agency receives the notification (and **ends** on the resumption date specified in the amendment after resumption).

⚠ **Information obligation** — Depending on the reasons for suspension, the beneficiaries may also have to take other measures under the GA *(e.g. **inform** the Commission/Agency under Article 17.2; **notify** a situation of force majeure under Article 51)*.

2. Procedure

The coordinator must immediately **formally notify** the Commission/Agency (via the Participant Portal)

3. Effects

The beneficiaries must immediately take all the necessary steps to **limit the damage** and do their best to resume (i.e. continue) implementing the action as soon as possible.

During suspension, **costs** incurred (for implementing the suspended part of the action) are NOT eligible *(see Article 6.5)*. Costs may again be incurred for the action, once action implementation is resumed.

If the **action can be continued** (resumed), the coordinator must:

- immediately formally notify the Commission/Agency of the date from which the action will start again
- request an amendment to the GA, to adapt it to the new situation *(e.g. by extending the action's duration, modifying Annexes 1 and 2, updating the reporting periods)*.

  The amendment must be requested in accordance with Article 55 *(e.g. it must be signed by the coordinator's LSIGN)*.

The suspension is lifted (as from the **resumption date** set out in the amendment), if the Commission/Agency approves the amendment.

> ***Example:*** *The action was suspended on 24.03.2016. The consortium notifies the Commission that they wish to lift the suspension after 60 days, on 22.05.2016. Therefore, in accordance with Article 54 of the GA, the suspension will be lifted as from 23.05.2016.*

If the suspension is lifted and the action continues, the action's remaining budget can be used for action implementation. (Although it may be that the budget must be lowered in the amendment, to adapt the action to the new situation).

> ***Example:*** *After the suspension, it is decided that not all the tasks described in Annex 1 will be implemented.*

If the **action** (or part of it) **can NOT be continued** (or the Commission/Agency does not approve the amendment; *see Article 55*), the GA (or the participation of one or more beneficiaries) may be terminated.

If the suspension leads to GA termination, NO further **costs** (incurred after the date of suspension) can be declared, except the costs for the reports *(see Article 6.1)*.

> ***Example:*** *The action starts on 1.1.2015 and is to last 36 months. The action's implementation is suspended for four months, from the date after the Commission is notified, 1.12.2015 to 31.3.2016 and the suspension leads to the GA termination. The eligible costs are:*
>
> - *costs incurred from the action's start (1.1.2015) until the date of notification (30.11.2015)*
> - *costs incurred for the submission of the first periodic report and the final report.*

49.2 Suspension of the action implementation, by the *[Commission][Agency]*

49.2.1 Conditions

The *[Commission][Agency]* may suspend implementation of the action or any part of it if:

(a) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed or is suspected of having committed:

(i) substantial errors, irregularities, or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(b) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) 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 22.5.2), or

(c) the action is suspected of having lost its scientific or technological relevance.

49.2.2 <u>Procedure</u>

Before suspending implementation of the action, the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned:

- 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 *[Commission][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 (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 or beneficiary concerned 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 55) — unless the

Agreement has already been terminated (see Article 50).

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 *[Commission][Agency]* (see Article 46).

Suspension of the action implementation does not affect the *[Commission's][Agency's]* right to terminate the Agreement or participation of a beneficiary (see Article 50), reduce the grant or recover amounts unduly paid (see Articles 43 and 44).

1. GA suspension (Commission/Agency)

The Commission/Agency may suspend the action (in full or in part), on the grounds listed in this Article.

Grounds for GA suspension (Commission/Agency):

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The Commission/Agency may suspend the action, if a beneficiary has committed or is suspected of having committed substantial errors, irregularities or fraud or serious breach of obligations — either during the award procedure or under the GA

  Example: *false declarations in the proposal form, in order to obtain EU funding*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The Commission/Agency may also suspend the action, if such substantial errors, irregularities or fraud or serious breach of obligations were found in *other* grants, if

  - the other grants were awarded under similar conditions and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

  Example: *During an audit of other grants, the Commission detected systematic irregularities in the calculation of personnel costs that also affect all other GAs signed by the audited beneficiary. The Commission may suspend the audited beneficiary's part of the action until the issue is resolved.*

- **Loss of scientific or technological relevance**

  The Commission/Agency may suspend the action, if it needs time to assess whether the action has lost scientific or technological relevance.

  This may in particular be the case:

  - if a complete revision of Annex 1 is necessary to assess the impact of a request for amendment
  - if work has significantly deviated from the original work plan
  - if a key beneficiary leaves the action and the consortium needs time to find a replacement
  - after a check, audit or review of the action.

Example: *There are technical problems with implementing the work under an action as described in Annex 1, so the consortium proposes changes to the work to be carried out. This may jeopardise its technological relevance and the Commission decides to suspend its implementation and to carry out a review.*

Suspension **starts** 5 days after it is notified to the coordinator (or on a later date specified in the notification) and **ends** on the resumption date specified in the amendment signed by the Commission/Agency).

2. Procedure

Before suspending the GA, the Commission/Agency will follow a **contradictory procedure** (for the basic contradictory procedure, *see Article 42)* with the:

- coordinator or

– beneficiary concerned *(e.g. for confidentiality reasons or simultaneous suspension of several grants).*

If it is directed at the coordinator, the coordinator must inform the other beneficiaries offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments.

If it is directed at the beneficiary concerned, the Commission/Agency will inform coordinator separately (in a way that preserves confidentiality).

Information obligation — Beneficiaries normally do not have to inform their coordinators or ask them to submit comments. However, they should inform them, if there is the risk of a significant impact on the action *(see Article 17.2).*

If possible, the Commission/Agency will give an estimation of how long the suspension will be needed.

3. Effects

During suspension, **costs** incurred (for implementing the suspended part of the action) are NOT eligible *(see Article 6.5)*. Costs may again be declared for the action, once the action is resumed.

If the **action can be continued**, the Commission/Agency will lift the suspension and formally notify the coordinator.

The coordinator must then request an amendment to the GA, to adapt it to the new situation *(e.g. by extending the action's duration modifying Annexes 1 and 2, updating the reporting periods)*.

The amendment must be requested in accordance with Article 55 *(e.g. it must be signed by the coordinator's LSIGN)*.

The suspension is lifted (as from the resumption date set out in the amendment), if the Commission/Agency approves the amendment.

If the **action** (or part of it) **can NOT be continued**, the GA (or the beneficiary concerned) may be terminated.

If the suspension leads to the GA termination, NO further **costs** (incurred after the date of suspension) can be declared, except the costs for the reports *(see Article 6.1)*.

Example:

A key beneficiary is suspected of having declared as eligible personnel costs under the GA the costs of personnel employed by another company. The Commission suspends the implementation of the action in order to carry out checks. During that period of suspension, the beneficiary withdraws from the action. The consortium cannot find a replacement for this beneficiary and terminates the GA in accordance with Article 50.1.

The GA starts on 1.5.2015 and lasts 42 months.

The Commission suspends its implementation.

The coordinator confirms having received notification of the suspension on 18.3.2017.

The suspension takes effect on 23.3.2017.

On 23.6.2017, the consortium formally notifies the GA termination.

Only costs incurred from 1.5.2015 to 23.3.2017 and the costs of submitting the periodic report for the last reporting period and the final report are eligible.

The Commission will reject the ineligible personnel costs.

Ineligible **costs** will be **rejected**. The **grant** may be **reduced**, if the termination is based on substantial errors, irregularities, fraud or serious breach of obligations (*for instance if the action has not been implemented properly; see Articles 5.3 and 43*). In certain cases,

the Commission/Agency may also impose **administrative sanctions** (i.e. exclusion and/or financial penalties; *see Article 45*).

ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

50.1 Termination of the Agreement, by the beneficiaries

50.1.1 Conditions and procedure

The beneficiaries may terminate the Agreement.

The coordinator must formally notify termination to the *[Commission][Agency]* (see Article 52), 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 *[Commission][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**.**

50.1.2 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 20.3) and

(ii) the final report (see Article 20.4).

If the *[Commission][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 *[Commission][Agency]* will **calculate** the final grant amount (see Article 5.3) and the balance (see Article 21.4) 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 43).

After termination, the beneficiaries' obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

1. GA termination (beneficiaries)

The beneficiaries have the right to terminate the GA.

GA termination should be a last-resort measure, if all efforts to continue the action fail.

If action implementation just becomes *temporarily* impossible or excessively difficult, it may be better not to terminate the GA but to suspend it *(see Article 49)*. In this case, the GA would only be terminated if it turns out later that implementation cannot be resumed anymore.

Example: *A fire devastates a laboratory where most of the technical equipment and computers used in the action are stored. If the beneficiaries consider that the laboratory can be replaced and the action will still be correctly implemented, they may suspend implementation and resume it when the new laboratory is operational. However, if the action has been suspended and it is not possible to find a new laboratory and therefore it is impossible to resume the action, the beneficiaries may terminate the GA.*

Grounds for GA termination (beneficiaries):

- **Any ground** that **justifies** early termination of the action

  The beneficiaries may terminate the GA in principle on any ground — as long as there is a good reason *(e.g. circumstances make its implementation impossible or excessively difficult; loss of the action's scientific or technological relevance; force majeure)*.

  Examples:

  1. *The consortium decides to terminate the GA due to technical difficulties that result in the action no longer being viable.*

  2*. The consortium requests termination because the action was finished ahead of schedule.*

  If there are no legitimate reasons for discontinuing the action, the Commission/Agency **can NOT oppose**, but termination will be considered **improper**.

  ⚠ **Improper termination** of the GA may lead to a grant reduction (see *(see Articles 5.3 and 43)*.

  This will be the case, for instance, if:

  - the implementation of the action has become impossible or excessively difficult due to the beneficiaries' wilful misconduct or gross negligence
  - the reasons provided are based on changes in the strategic choices of the beneficiaries, not linked to any specific economic or operational difficulties
  - implementation would have been possible if the beneficiaries had made more (but still reasonable) efforts.

  Example: *The beneficiaries decide to terminate the GA due to internal communication and decision-making problems within the consortium, and notify the Commission via the coordinator. The Commission considers that these internal problems have jeopardised the action's implementation, but do not justify terminating the GA because they could have been solved within the consortium on the basis of the consortium agreement. This improper termination may lead to a grant reduction.*

2. Procedure

The coordinator must **formally notify** the Commission/Agency (via the Participant Portal) of the termination — on behalf of the other beneficiaries.

Best practice: Beneficiaries should contact the Commission/Agency beforehand, to discuss the termination.

The notification must specify the date on which termination will take effect (**termination date**).

This date must be a date after the notification: Terminations can**not** be **retroactive** (notably to be able to comply with the obligations and deadlines after termination; *see point 3*).

3. Effects

The coordinator must — within 60 days — **submit** the necessary **reports** (i.e. a periodic report for the open reporting period until termination and the final report).

The Commission/Agency will **calculate** the **final grant amount** and the **payment of the balance** *(see Articles 5.3 and 21.4)*.

If the total amount of earlier payments (pre-financing payment and interim payments, if any) received before termination:

- is greater than the final grant amount, the balance is negative and will take the form of a recovery *(see Article 21.4 and 44.1.2)*.
- is lower than the final grant amount, the Commission/Agency will pay the balance *(see Article 21.4)*.

Only **costs** incurred *before* termination (i.e. before the termination date) are eligible — except for the:

- costs for the reports *(see Article 6.1)*

  Example: *The action's duration is 36 months. The starting date is 1.1.2016. The notified termination date is 1.5.2017. Therefore, only costs incurred in connection with the action from 1.1.2016 to 1.5.2017 (16 months) and the costs related to submission of the periodic report for the last reporting period and the final report are eligible*

- costs for (the part of) contracts or subcontracts delivered before termination *(see Article 6.1)*.

  Example: *One of the beneficiaries of the GA has a contract to carry out 8 tests during the action's duration. However, only three tests out of 8 are carried out before the GA is terminated. Therefore, only the costs related to these 3 tests carried out before termination may be eligible for the action.*

If the coordinator fails to submit the reports (within the 60 calendar days of the date on which termination takes effect), costs that are not included in an approved periodic financial report will NOT be taken into account when the final grant amount is calculated. (The Commission/Agency will NOT send a reminder and will NOT extend the deadline.)

Termination has no effect on the **provisions** that normally **continue to apply** after the end of the action.

Obligations that continue to apply after the GA is terminated:

- Keeping records and other supporting documentation *(Article 18.1)*
- Submitting the periodic report (for the open reporting period until termination) and the final report *(see Article 50.1.1 and 20)*
- Providing requested information and allow access to their sites and premises (for checks, reviews, audits, investigations or evaluations of the action's impact; *see Articles 22 and 23)*
- Complying with the rules on management of intellectual property, background and results *(see Section 3 of Chapter 4 of the GA)*
- Maintaining confidentiality *(see Article 36)*
- Complying with the security obligations (if applicable) *(see Article 37)*
- Promoting the action and giving visibility to the EU funding *(see Article 38)*
- No assignment of claims for payment *(see Article 40)*
- Chapter 6 measures (i.e. rejection of costs *(see Article 42)* grant reduction *(see Article 43)* recovery *(see Article 44)*.

MULTI-BENEFICIARY:

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

50.2.1 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 *[Commission][Agency]* (see Article 52) 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 55), 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 56). 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 *[Commission][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.

50.2.2 Effects

The coordinator must — within 30 days from when termination takes effect — submit:

(i) a report on the distribution of payments to the beneficiary concerned and

(ii) if termination takes effect during the period set out in Article 3, a '**termination report**' from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, an overview of the use of resources, the individual financial statement and, if applicable, the certificate on the financial statement (see Article 20.3 and 20.4).

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 20.3).

If the request for amendment is rejected by the *[Commission][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 50.3.1(c).

If the request for amendment is accepted by the *[Commission][Agency]*, the Agreement is **amended** to introduce the necessary changes (see Article 55).

The *[Commission][Agency]* will — on the basis of the periodic reports, the termination report and the report on the distribution of payments — calculate the amount which is due to the beneficiary and if the (pre-financing and interim) payments received by the beneficiary exceed this amount.

The **amount which is due** is calculated in the following steps:

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

The grant amount for the beneficiary is calculated by applying the reimbursement rate(s) to the total eligible costs declared by the beneficiary *[and its linked third parties]* in the termination report and approved by the *[Commission][Agency]*.

Only costs incurred by the beneficiary concerned until termination takes effect are eligible (see Article 6). Costs relating to contracts due for execution only after termination are not eligible.

Step 2 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations

In case of a reduction (see Article 43), the *[Commission][Agency]* will calculate the reduced grant amount for the beneficiary by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) from the grant amount for the beneficiary.

If the payments received **exceed the amounts due**:

- if termination takes effect during the period set out in Article 3 and the request for amendment is accepted, the beneficiary concerned must repay to the coordinator the amount unduly received. The *[Commission][Agency]* will formally notify the amount unduly received and request the beneficiary concerned to repay it to the coordinator within 30 days of receiving notification. If it does not repay the coordinator, the *[Commission][Agency]* will draw upon the Guarantee Fund to pay the coordinator and then notify a **debit note** on behalf of the Guarantee Fund to the beneficiary concerned (see Article 44);

- in all other cases (in particular if termination takes effect after the period set out in Article 3), the *[Commission][Agency]* will formally notify a **debit note** to the beneficiary concerned. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the *[Commission][Agency]* the amount due and the *[Commission][Agency]* will notify a debit note on behalf of the Guarantee Fund to the beneficiary concerned (see Article 44);

- if the beneficiary concerned is the former coordinator, it must repay the new coordinator the amount unduly received, unless:

  - termination takes effect after an interim payment and

  - the former coordinator has not distributed amounts received as pre-financing or interim payments (see Article 21.7).

  In this case, the *[Commission][Agency]* will formally notify a **debit note** to the former coordinator. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the *[Commission][Agency]* the amount due. The *[Commission][Agency]* will then pay the new coordinator and notify a debit note on behalf of the Guarantee Fund to the former coordinator (see Article 44).

If the payments received **do not exceed the amounts due**: amounts owed to the beneficiary concerned will be included in the next interim or final payment.

If the *[Commission][Agency]* does not receive the termination report within the deadline (see above), only costs included in an approved periodic report will be taken into account.

If the *[Commission][Agency]* does not receive the report on the distribution of payments within the deadline (see above), it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned and that
- the beneficiary concerned must not repay any amount to the coordinator.

Improper termination may lead to a reduction of the grant (see Article 43) or termination of the Agreement (see Article 50).

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

MONO-BENEFICIARY:

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

Not applicable

1. Partner termination (beneficiaries)

The beneficiaries may terminate the participation of a beneficiary (or of several beneficiaries), if:

- the beneficiary concerned requests it or
- the consortium decides to terminate the beneficiary's participation (using its internal decision-making procedures). In this case, the consortium must ask for the beneficiary's opinion (and provide it if obtained or — if the beneficiary didn't reply — the request to the Commission/Agency).

Grounds for partner termination (beneficiaries):

- **Any ground** that **justifies** termination of the participation of the beneficiary

  The beneficiaries may terminate the participation of one of their consortium members in principle on any ground — as long as there is a good reason *(e.g. withdrawal by a beneficiary because due to a change in ownership; the beneficiary cannot implement its tasks in the same way; bankruptcy)*.

  For beneficiaries that are involved in **several EU GAs,** withdrawal from one GA does NOT necessarily imply that it has to also withdraw from the others.

  Information obligation — In case of **bankruptcy** (or similar), the beneficiary or the coordinator must immediately inform the Commission/Agency. Late information will be considered as a breach of the information obligation under the GA *(see Article 17.2)*.

  If there are no legitimate reasons, the Commission/Agency **can NOT oppose** partner termination, but it will be considered **improper**.

  Improper termination of the participation of a beneficiary may lead to GA termination *(see Article 50.3.1(c))* and/or to a grant reduction at the payment of the balance *(see Articles 5.3 and 43)*.

Termination extends to **linked third parties**. Terminating a beneficiary's participation implies that its linked third parties' may NOT continue participating in the action.

⚠ **Linked third parties —** Linked third parties are allowed to *fully* participate in the framework partnership and specific actions, like beneficiaries.

Linked third parties can NOT however do more than the beneficiary they are linked to: If their beneficiary is terminated, they must also leave the action.

2. Procedure

The coordinator must **formally notify** the Commission/Agency of the termination (via the Participant Portal). At the same time, the coordinator must inform the beneficiary concerned (through the usual communication channels — in writing and offline).

The notification must include all the **information** set out in this Article (including the date the termination takes effect) and a **request for** an **amendment**.

Since for partner termination the notification is combined with an amendment request, they must be submitted and signed by the PLSIGN of the coordinator (on behalf of the other beneficiaries *(see Annex 3)*.

NO amendment is needed, if the termination takes effect after the end of the action — unless it concerns the coordinator (since the new coordinator has many obligations also after the end of the action, *e.g. submit the reports, receive the payment of the balance and distribute the payment among the beneficiaries*).

The amendment must be requested in accordance with Article 55.

If it is accepted, the GA will be amended to introduce the necessary changes (including, if necessary, the addition of new beneficiaries).

If it is rejected, the beneficiaries will have to make another proposal to the Commission/Agency. If a satisfactory solution cannot be found (*i.e. the request for an amendment calls into question the decision awarding the grant or breaches the principle of the equal treatment of applicants)*, the GA may be terminated.

Example: *A key beneficiary terminates its participation in the GA. The consortium cannot find a replacement and cannot continue implementing the action without one.*

The notification must specify the date on which termination will take effect (**termination date**).

This date must be a date after the notification: Terminations can**not** be **retroactive** (notably to be able to comply with the obligations and deadlines after termination; *see point 3*).

3. Effects

If the **GA continues** (i.e. it is amended), the remaining members of the consortium (and any new beneficiaries) have the responsibility for fully implementing the action as described in Annex 1 *(see Article 41.1)*. They must carry out the action (including the part that the defaulting beneficiary was supposed to carry out and without any additional funding to do so) — unless the Commission/Agency expressly agrees otherwise.

The (new) coordinator must — within 30 days — **submit** the necessary **reports** (i.e. a report on the distribution of payments to the beneficiary concerned and a termination report).

The information contained in the beneficiary's termination report must also be included in the **periodic report** for the next reporting period.

The Commission/Agency will **calculate** the **amount due** to the beneficiary whose participation is terminated:

- if the Commission/Agency owes amounts to the beneficiary, those amounts will be paid with the following payment to the consortium (interim or final)

- if the beneficiary owes, those amounts must be repaid by it (normally to the consortium).

Only **costs** incurred before termination (i.e. before the notified date on which termination takes effect) are eligible— except for the:

- costs for the termination report *(see Article 6.1)*
- costs for (the part of) contracts or subcontracts delivered before termination *(see Article 6.1)*.

If the coordinator fails to submit the *termination report* (within the 30 calendar days of the date on which termination takes effect), costs that are not included in an approved periodic financial report will NOT be taken into account when the contribution is calculated.

If the coordinator fails to submit the *report on the distribution of payments*, the beneficiary whose participation was terminated will NOT have to repay any amounts.

Termination has no effect on the **provisions** that normally **continue to apply** after the end of the action *(see Article 50.1)*.

Specific cases (partner termination):

Termination of the coordinator without its agreement — The decision to terminate the coordinator must be made by the rest of the consortium (according to its internal decision-making procedures). The notification and amendment request must be made by one of the beneficiaries (acting on behalf of the other beneficiaries; *see Article 55*).

Coordinator in bankruptcy/liquidation/administration (or similar) — In principle the coordinator must be changed. If the coordinator can no longer submit the request, the same procedure as for coordinator termination without its agreement should be used *(see above and Article 55)*.

Exceptionally, at the end of the action it may not be necessary to change the coordinator, but only its bank account if the administrator/liquidator accepts to do the final transfers of amounts.

MULTI-BENEFICIARY:

50.3 Termination of the Agreement or the participation of one or more beneficiaries, by the *[Commission][Agency]*

50.3.1 Conditions

The *[Commission][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 56);

(b) a change to their legal, financial, technical, organisational or ownership situation *[(or those of its linked third parties)]* 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 55);

(d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the coordinator (see Article 49.1) 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) the action has lost scientific or technological relevance;

(i) ***[OPTION 1 for joint actions (joint call with a third country or an international organisation):*** *the third country or international organisation action (see Article 2) has not started by the date specified in Annex 1]****[OPTION 2:*** *not applicable];*

(j) ***[OPTION 1 for joint actions (joint call with a third country or an international organisation):*** *the third country or international organisation action (see Article 2) is terminated or can no longer contribute to the action]****[OPTION 2:*** *not applicable];*

(k) 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;

(l) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(m) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) 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 22.5.2;

(n) ***[OPTION 1:*** *despite a specific request by the [Commission][Agency], a beneficiary does not request — through the coordinator — an amendment to the Agreement to end the participation of one of its linked third parties or international partners that is in one of the situations under points (e), (f), (g), (k), (l) or (m) and to reallocate its tasks****][OPTION 2:*** *not applicable]*.

50.3.2 Procedure

Before terminating the Agreement or participation of one or more beneficiaries, the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned:

- 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 (l.ii) above — to inform the *[Commission][Agency]* of the measures to ensure compliance with the obligations under the Agreement.

If the *[Commission][Agency]* does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify to the coordinator or beneficiary concerned **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), (h), (j), (l.ii) and (n) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (i), (k), (l.i) and (m) above: on the day after the notification of the confirmation is received.

50.3.3 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 20.3) and

(ii) a final report (see Article 20.4).

If the Agreement is terminated for breach of the obligation to submit reports (see Articles 20.8 and 50.3.1(l)), the coordinator may not submit any reports after termination.

If the *[Commission][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 *[Commission][Agency]* will **calculate** the final grant amount (see Article 5.3) and the balance (see Article 21.4) 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 *[Commission's][Agency's]* right to reduce the grant (see Article 43) or to impose administrative sanctions (Article 45).

The beneficiaries may not claim damages due to termination by the *[Commission][Agency]* (see Article 46).

After termination, the beneficiaries' obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) 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 report on the distribution of payments to the beneficiary concerned;

(ii) a request for amendment (see Article 55), 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 56). 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, and

(iii) if termination takes effect during the period set out in Article 3, a **termination report** from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, an overview of the use of resources, the individual financial statement and, if applicable, the certificate on the financial statement (see Article 20).

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 20.3).

If the request for amendment is rejected by the *[Commission][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 50.3.1(c).

If the request for amendment is accepted by the *[Commission][Agency]*, the Agreement is **amended** to introduce the necessary changes (see Article 55).

The *[Commission][Agency]* will — on the basis of the periodic reports, the termination report and the report on the distribution of payments — **calculate** the amount which is due to the beneficiary and if the (pre-financing and interim) payments received by the beneficiary exceed this amount.

The **amount which is due** is calculated in the following steps:

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

The grant amount for the beneficiary is calculated by applying the reimbursement rate(s) to the total eligible costs declared by the beneficiary *[and its linked third parties]* in the termination report and approved by the *[Commission][Agency]*.

Only costs incurred by the beneficiary concerned until termination takes effect are eligible (see Article 6). Costs relating to contracts due for execution only after termination are not eligible.

Step 2 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations

In case of a reduction (see Article 43), the *[Commission][Agency]* will calculate the reduced grant amount for the beneficiary by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) from the grant amount for the beneficiary.

If the payments received **exceed the amounts due**:

- if termination takes effect during the period set out in Article 3 and the request for amendment is accepted, the beneficiary concerned must repay to the coordinator the amount unduly received. The *[Commission][Agency]* will formally notify the amount unduly received and request the beneficiary concerned to repay it to the coordinator within 30 days of receiving notification. If it does not repay the coordinator, the *[Commission][Agency]* will draw upon the Guarantee Fund to pay the coordinator and then notify a debit note on behalf of the Guarantee Fund to the beneficiary concerned (see Article 44);

- in all other cases, in particular if termination takes effect after the period set out in Article 3, the *[Commission][Agency]* will formally notify a **debit note** to the beneficiary concerned. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the *[Commission][Agency]* the amount due and the *[Commission][Agency]* will notify a debit note on behalf of the Guarantee Fund to the beneficiary concerned (see Article 44);

- if the beneficiary concerned is the former coordinator, it must repay the new coordinator the amount unduly received, unless:

  - termination takes effect after an interim payment and

  - the former coordinator has not distributed amounts received as pre-financing or interim payments (see Article 21.7)

  In this case, the *[Commission][Agency]* will formally notify a **debit note** to the former coordinator. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the *[Commission][Agency]* the amount due. The *[Commission][Agency]* will then pay the new coordinator and notify a debit note on behalf of the Guarantee Fund to the former coordinator (see Article 44).

- If the payments received **do not exceed the amounts due**: amounts owed to the beneficiary concerned will be included in the next interim or final payment.

If the *[Commission][Agency]* does not receive the termination report within the deadline (see above), only costs included in an approved periodic report will be taken into account.

If the *[Commission][Agency]* does not receive the report on the distribution of payments within the deadline (see above), it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned, and that

- the beneficiary concerned must not repay any amount to the coordinator.

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

MONO-BENEFICIARY:

50.3 Termination of the Agreement, by the *[Commission][Agency]*

[…]

1. GA or beneficiary termination (Commission/Agency)

The Commission/Agency may terminate the GA or the participation of one (or more) of the beneficiaries, on the **grounds** listed in this Article.

⚠ Beneficiary termination may lead to **GA termination**, if the Commission/Agency considers that the GA can NOT be continued *(see Article 50.3.1(c))*.

⚠ The GA may be **directly terminated** if beneficiary termination would call into question the the decision awarding the grant or breach the principle of equal treatment of applicants.

Grounds for termination (Commission/Agency):

- **Non-accession to the GA**

  The Commission/Agency may terminate the GA, if one (or more) beneficiaries did not accede to the GA (i.e. did not sign the Accession Form within 30 days after the entry into force of the GA or did not provide the requested declaration on joint and several liability).

  Non-accession of a beneficiary does NOT automatically lead to the GA termination; the consortium can find an alternative solution that ensures the proper implementation of the action without the beneficiary (and request an amendment; *see Article 55)*.

  In this case, the Commission/Agency will terminate the GA only if it considers the solution inappropriate or if the consortium no longer complies with the eligibility conditions set out General Annexes A and C to the Main Work Programme *(e.g. the rules regarding the minimum number of beneficiaries, their legal situation, or their place of establishment)*. [69]

  Examples:

  1. *Three entities from Poland, Portugal and France, are going to participate in a GA. The French beneficiary does not accede to the GA, and the other two beneficiaries fail to find a solution to this. The Commission terminates the GA because the conditions set out in the work programme/call are not met (i.e. the rule that three legal entities must take part).*

  2. *A key beneficiary does not take part in the action after all; the assessment of the action based on the award criteria announced in the call for proposals would have had a different result.*

- **Change in a beneficiary's situation**

  The Commission/Agency may terminate the participation of a beneficiary, if there has been a change to its (or one of its linked third parties') legal, financial, technical, organisational or ownership situation, that is likely to substantially affect or delay the action's implementation or calls into question the decision to award the grant.

  Such changes can be of any kind and can be triggered by the beneficiary itself or outside circumstances.

  Examples:

  1. *An action's key beneficiary is taken over by a non-European company (not entitled to participate due to security reasons). This substantially affects the action's implementation and the ownership, protection, exploitation and dissemination of the results. The Commission decides to terminate the beneficiary's participation in the GA (or the GA if the other beneficiaries fail to find a solution to replace it).*

  2. *The country in which one of the beneficiaries is established ceases to be an EU Member State. This means that the beneficiary is no longer eligible for funding and that the decision to award the grant is called into question. The Commission may decide to terminate the beneficiary's participation in the GA (or the GA).*

- **GA cannot be amended after termination** of a beneficiary's participation

  The Commission/Agency may terminate the GA, if it cannot be amended after termination of a beneficiary's participation because the necessary changes to the GA would call into question the decision awarding the grant or breach the principle of the equal treatment of applicants; *see Article 55*).

  Example: *A beneficiary that has the necessary background to work on the action and owns the installations where most of the work would be implemented decides to terminate its participation.*

[69] *See also Article 8 of the Rules for Participation Regulation No 1290/2013.*

The Commission decides to terminate the GA because continuing implementing the action without this beneficiary calls into question the decision awarding the grant.

The GA may be **directly terminated** if beneficiary termination would call into question the the decision awarding the grant or breach the principle of equal treatment of applicants.

- **Action can no longer be implemented**

The Commission/Agency may terminate the GA, if action implementation is prevented by *force majeure* or the action implementation is suspended and resumption is not possible or the necessary amendment is not acceptable *(see Articles 49 and 55)*.

Example: *A fire devastates a laboratory where most of the technical equipment and computers with the action's research data are stored. The coordinator suspends the action's implementation to rebuild the laboratory. The Commission carries out a review after the force majeure takes place and concludes that the consortium can no longer implement the action. It therefore decides to terminate the GA.*

- **Bankruptcy, winding-up, administration, arrangement with creditors, suspension of business activities or other similar proceedings**

The Commission/Agency may terminate the participation of a beneficiary, if it 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 (since this normally implies that the beneficiary cannot carry out the work properly).

Example: *A coordinator informs the Commission that a beneficiary participating in a GA is insolvent. It does not notify partner termination because it thinks that the beneficiary may continue implementing the action. The Commission considers that the beneficiary has not sufficient means to pursue implementation and terminates the beneficiary's participation.*

⚠ **Information obligation** — In case of **bankruptcy** (or similar), the beneficiary or the coordinator must immediately inform the Commission/Agency. Late information will be considered as a breach of the information obligation under the GA *(see Article 17.2)*.

- **Professional misconduct**

The Commission/Agency may terminate the participation of a beneficiary, if it (or one of its representatives) has been found guilty of professional misconduct (proven by any means).

Example: *A legal entity's participation in a GA is terminated when an investigation uncovers that it has falsified the results of clinical studies.*

- **Non-compliance with tax or social security obligations**

The Commission/Agency may terminate the participation of a beneficiary, if it has not fulfilled its obligations to pay social security contributions or taxes under national law (i.e. the law of the country in which it is established and those of the country where the action is implemented; *see Article 7*).

Example: *A national administration notifies to the Commission/Agency that a beneficiary did not pay social security contribution for its employees. If this beneficiary cannot prove that it paid these contributions or clarify the situation within a given deadline, the Commission may terminate its participation in the GA.*

- **Loss of scientific or technological relevance**

The Commission/Agency may terminate the GA, if the action has lost scientific or technological relevance.

Example: *A proposal on research on a new system based on recently discovered material is selected. After the action starts, a European scientific publication demonstrates that this material contains a chemical substance that irremediably harms human health. Therefore, the action cannot continue and the Commission decides to terminate the GA.*

- **Specific grounds for joint actions**

For joint actions (i.e. actions funded following a joint or coordinated call with a third country or international organisation (IO); *see Article 2*), the Commission/Agency may terminate the GA, if:

  – the third country/IO action does not start by the date specified in Annex 1

In this case, NO costs incurred by the consortium will be accepted. Any pre-financing provided to the consortium must be returned to the Commission/Agency in full.

- the third country/IO action is terminated
- the third country/IO action can no longer contribute to the subject of the GA.

Example: *if the coordination agreement is not signed.*

- **Fraud, corruption or other criminal activities**

The Commission/Agency may terminate the participation of a beneficiary, if it (or one of its representatives) has committed fraud, corruption, or is involved in a criminal organisation, money laundering or any other illegal activity.

Example: *A legal entity's participation in several EU projects is terminated when its owner is convicted by national courts to have participated in large-scale drug trafficking.*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

The Commission/Agency may terminate the GA or the participation of a beneficiary, if a beneficiary (or one of its representatives) has committed substantial errors, irregularities or fraud or serious breach of obligations — either during the award procedure or under the GA.

Example: *false declarations in the proposal form, in order to obtain EU funding; coordinator does not transfer payments to the other beneficiaries, but uses them for itself; coordinator does not submit the reports (despite a reminder); consortium does not inform the Commission/Agency about the receipt of a second grant for the same/similar proposal; review shows that action does not achieve its critical objectives and is way behind schedule and consortium submits a short-term implementation plan that is not acceptable; audit shows that beneficiary declared costs based on fake invoices; consortium does not provide requested information (despite a reminder); a check shows that scientific reports submitted by the consortium were almost entirely copied from the web (plagiarism); consortium does not submit an amendment request after beneficiary termination.*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

The Commission/Agency may also terminate the GA or the participation of a beneficiary, if such substantial errors, irregularities- or, fraud or serious breach of obligations were found in *other* grants, if

- the other grants were awarded under similar conditions and
- the substantial errors, irregularities or fraud or serious breach of obligations are:
  - systemic or recurrent and
  - have a material impact on this grant.

Example: *During an audit of other grants, the Commission detected systematic irregularities in the calculation of personnel costs that appear intentional and also affect all other GAs signed by the audited beneficiary. The Commission may terminate the participation of the audited beneficiary in the GA.*

- **Non-removal of a linked third party/international partner**

The Commission/Agency may terminate the participation of a beneficiary if it refuses to remove one of its linked third parties or an international partner which is in one of the following situations:

- bankruptcy, winding-up, administration, arrangement with creditors, suspension of business activities or other similar proceedings;
- professional misconduct
- non-compliance with tax or social security obligations
- fraud, corruption or other criminal activities
- substantial errors, irregularities or fraud or serious breach of obligations (in this grant or other grants).

3.0 This termination ground was introduced as explicit contractual ground with GA version 3.0. For older grant agreements, beneficiary termination/linked third party removal was however already implicitly included in the different grounds of Article 50.3.3 (given that linked third parties have to fulfil the same conditions as the beneficiaries for participating in the action).

Before terminating (GA or beneficiary), the Commission/Agency may first suspend the GA *(see Article 49.2)*, to try to fix the problems and re-establish compliance with the GA. In this case, it will only terminate (the GA or a beneficiary) if the action cannot be resumed.

2. Procedure

Before GA or beneficiary termination, the Commission/Agency will follow a **contradictory procedure** (for the basic contradictory procedure, see *Article 42*), with the:

- coordinator or
- beneficiary concerned *(e.g. for confidentiality reasons or simultaneous suspension in several grants)*.

If it is directed at the coordinator, the coordinator must inform the other beneficiaries offline, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments.

If it is directed at the beneficiary concerned, the Commission/Agency will inform coordinator separately (in a way that preserves confidentiality).

⚠ **Information obligation** — Beneficiaries normally do not have to inform their coordinators or ask them to submit comments. However, they should inform them, if there is the risk of a significant impact on the action *(see Article 17.2)*.

If a beneficiary's participation is terminated on the basis of Article 50.3.1(e) (i.e. bankruptcy or similar), the Commission/Agency will also contact the liquidator/administrator.

If it confirms termination, the Commission/Agency will specify the date on which termination will take effect **(termination date)**.

This date will be a date after the notification: Terminations can**not** be **retroactive** (notably to ensure the fulfilment of obligations and deadlines after termination; *see point 3*).

For some cases, the Commission/Agency may choose a **future** date (in order to give the beneficiaries the possibility to close the action). For the other cases *(e.g. termination under points (a), (d), (f), (i), (k), (l.i) and (m))*, the termination will take effect immediately, i.e. on the day after the coordinator receives the notification of the confirmation *(see Article 50.3.2)*.

3. Effects

The effects of GA termination are the same as when the beneficiaries terminate the GA *(see Article 50.1.2)*.

Only **costs** incurred before termination (i.e. before the date on which termination takes effect) are eligible. Costs relating to contracts due for execution only after termination are not eligible.

Ineligible costs will be **rejected**. The **grant** may be **reduced**, if the termination is based on substantial errors, irregularities, fraud or serious breach of obligations (*for instance if the action has not been implemented properly; see Articles 5.3 and 43*). In certain cases,

the Commission/Agency may also impose **administrative sanctions** (i.e. exclusion and/or financial penalties; *see Article 45*).

The effects of beneficiary termination are the same as when the beneficiaries terminate one of their partners *(see Article 50.2.2)*.

Termination has no effect on the **provisions** that normally **continue to apply** after the end of the action *(see Article 50.1)*.

SECTION 4 FORCE MAJEURE

ARTICLE 51 — FORCE MAJEURE

SECTION 4 FORCE MAJEURE

ARTICLE 51 — FORCE MAJEURE

51.1 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.

1. Force majeure

What?

In case of force majeure, a party will be excused from not fulfilling its obligations (i.e. there will be no breach of obligations under the GA and none of the adverse measures for breach of contract will be applied).

'Force majeure' relates to an extraordinary event or situation that is beyond the party's control and that prevents it from fulfilling its obligations under the GA.

Examples (force majeure): *An earthquake, terrorist attack or volcanic eruption; delay in delivering equipment due to floods in the region/country.*

Examples (not force majeure): *machine malfunctions, robberies; a subcontractor building a test site went bankrupt.*

The event or situation must be inevitable (despite the beneficiary's due diligence, i.e. level of care that can reasonably be expected from a beneficiary, in order to ensure the fulfilment of its obligations under the GA) and unforeseeable. Force majeure can NOT be used to justify situations caused by a beneficiary's negligence or by events that could reasonably have been anticipated.

The following cases are explicitly NOT considered force majeure:

- 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
- financial difficulties.

Force majeure normally has no specific effects on the eligibility of **costs**.

Costs are eligible, if they fulfil the conditions set out in Article 6 — like any other costs incurred under the action. However, if force majeure entails *extra* costs for the implementation of the action, it will normally be the beneficiaries that must bear them (since they were not budgeted and the maximum grant amount set out in Article 5.1 cannot be increased).

Example: *Airline tickets bought for a beneficiary to attend a meeting related to the action. The flight is cancelled due to a volcano eruption, making it impossible for the beneficiary to travel to the meeting. If the ticket costs fulfil the eligibility conditions set out under Article 6 of the GA, they are eligible, even if the beneficiary did not travel and did not take part in the meeting.*

New in Horizon 2020: This is different from FP7, where only costs for tasks that had actually been executed *up to* the date of the force majeure were eligible.

Force majeure may lead to GA suspension *(see Article 49)* or GA termination *(see Article 50)*.

How?

The coordinator must immediately **formally notify** the Commission/Agency (via the Participant Portal).

The beneficiary concerned must quickly put in place all possible **measures to limit** the **damage** caused by the force majeure, including measures to limit related costs.

CHAPTER 7 FINAL PROVISIONS

ARTICLE 52 — COMMUNICATION BETWEEN THE PARTIES

CHAPTER 7 FINAL PROVISIONS

ARTICLE 52 — COMMUNICATION BETWEEN THE PARTIES

52.1 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.

All communication must be made through the Participant Portal electronic exchange system and using the forms and templates provided there.

If — after the payment of the balance — the [Commission][Agency] finds that a formal notification was not accessed, a second formal notification will be made by registered post with proof of delivery ('formal notification on **paper**'). Deadlines will be calculated from the moment of the second notification.

Communications in the electronic exchange system must be made by persons authorised according to the Participant Portal Terms & Conditions. 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 Participant Portal Terms & Conditions).

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

52.2 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.

52.3 Addresses for communication

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

[insert URL]

The *[Commission][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 official mailing address indicated on the *[Commission's][Agency's]* website.

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 Participant Portal Beneficiary Register.

1. Communication between the parties — Participant Portal electronic exchange system

All communication between the consortium and the Commission/Agency – before and after the payment of the balance – must be in electronic form **via** the **Participant Portal**.

Beneficiaries will receive Participant Portal notifications even after the end of the action (and the LEARs are obliged to keep beneficiary contact data up to date, in order to ensure that the communication channels remain active).

The responsibility for opening notifications in time is with the beneficiaries.

Formal notifications are normally considered to have been **accessed 10 days after** they have been **sent** (— even not actually opened by recipient, *e.g. refusal of reception or omission*). Deadlines that are counted from the date of receipt are counted as of day eleven.

The same is in principle valid for formal notifications **after the payment of the balance** — except that the Commission/Agency will check that the notification has *actually* been accessed by the beneficiary (at any time, before or after the 10 days deadline). If it was not accessed, the Commission/Agency will send a second notification, this time on paper by registered post with proof of delivery. In that case, the deadlines will start to run from the date of receipt of the second notification and the communication will continue outside the Participant Portal.

4.0 The communication via the Participant Portal after the payment of the balance was introduced with GA version 4.0. For older grant agreements, it is in principle on paper, unless the beneficiary explicitly agrees to accept communication via the Participant Portal.

The Participant Portal offers different **functions**:

- viewing and changing the legal entity data in the Beneficiary Register
- direct access to the necessary forms and electronic submission for reporting, deliverables and amendments
- contacting the Commission/Agency, via the messages function
- formal notifications
- where necessary, secured **electronic signatures** (*for instance, for signing the GA, accession to the GA, amendments and financial statements).*

It keeps **logs** of **all communication** and allows for **delivery** of formal notifications **with proof of receipt**.

All messages are recorded in the Participant Portal project file (with date and time).

Formal notifications are also recorded (with information on when they were sent and received, i.e. date and time the receiving party first accessed the notification, as indicated by the time stamp).

Access is limited to persons with a **user account** and **authorisation** to act for the beneficiary.

Authorisation and access are linked to the user role *(e.g. LEAR, PLSIGN or PFSIGN*).

Examples:

1. *Only Legal Signatories (PLSIGNs) may sign the GA and amendments.*

2. *Only Financial Statement Signatories (PFSIGNs) may sign the financial statements.*

3. *Only Primary Coordinator Contacts (PCoCos) and Coordinator Contacts (CoCo) may submit information to the Commission. The Primary Coordinator Contact can be changed only by the responsible (project) officer in the back-office, while the other roles can be managed by the participants themselves via the Portal. (In case of MSCA-IF the Supervisor identified in the proposal becomes the PCoCo, in ERC grants the PI identified in the proposal becomes the PCoCo.)*

4. *Only Participant Contacts (PaCos) may submit information to the coordinator. They cannot submit information directly to the Commission/Agency.*

5. *Only the Participant Contact(s) (PaCo, or PCoCo and CoCo(s) in case of the coordinator), Legal Signatory (PLSIGN) or Financial Signatory (PFSIGN) of the recipient beneficiary may access a formal notification for the first time (i.e. may formally receive it).*

6. *Task Managers (TaMa) may only complete and save web forms and upload documents related to their organisation's participation in the grant. They cannot submit information to the coordinator or the Commission.*

7. *Team Members (TeMe) have read-only access to project information. They cannot complete or save forms, nor submit information to the coordinator or the Commission/Agency.*

For more information on access and roles in the Participant Portal*, see the Online Manual.*

In principle, all communications from/to the Commission/Agency must go **via the coordinator** — unless the GA or other rules provide for direct communication with the other beneficiaries *(e.g. Articles 20, 22, 23, 30, 41, 55; OLAF Regulations No 883/2013 and No 2185/2996)*.

Specific cases (PP access rights):

Beneficiaries in bankruptcy — If during a beneficiary goes bankrupt during the action, the liquidator may be granted the necessary access rights in the Participant Portal, in order to complete the beneficiaries' obligations. If exceptionally necessary, the Commission/Agency can also agree to communication outside the Participant Portal electronic exchange system (i.e. via registered post or e-mails).

ARTICLE 53 — INTERPRETATION OF THE AGREEMENT

ARTICLE 53 — INTERPRETATION OF THE AGREEMENT

53.1 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.

53.2 Privileges and immunities

[OPTION 1 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 2: *Not applicable****]***

1. Privileges and immunities

The Commission/Agency will not take measures against international organisations which would be contrary to the privileges and immunities accorded by their constituent documents or international law.

'**International organisation**' means intergovernmental organisations (other than the EU) with legal personality under international public law (including specialised agencies set up by international organisations).

Examples: *International Committee of the Red Cross (ICRC); International Federation of National Red Cross and Red Crescent Societies*

Thus in most cases (that is to say, unless the applicable legal texts provide otherwise), public law decisions cannot be applied to international organisations; only contractual measures will be taken.

Therefore, the Commission/Agency will not apply enforceable decisions under Article 299 TFEU *(see Article 44)* or decisions on administrative sanctions (i.e. exclusion or financial penalties; *see Article 45*).

Similarly, offsetting will be applied only as a contractual measure on the basis of Article 44 GA (— never as a public law measure directly on the basis of Article 80(1) of the Financial Regulation No 966/2012).

By consequence, dispute settlement is normally limited to arbitration *(see Article 57.2)*. The public law remedies (i.e. Article 263 action) do not apply.

ARTICLE 54 — CALCULATION OF PERIODS, DATES AND DEADLINES

ARTICLE 54 — CALCULATION OF PERIODS, DATES AND DEADLINES

In accordance with Regulation No 1182/71[56], **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.

[56] Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L124, 8.6.1971, p.1)

1. Periods in days

A period expressed in days starts on the day following the triggering event and ends at midnight of the last day of the period. Days are calendar days.

Example: *Under Article 20.3, the coordinator must submit a periodic report within 60 days following the end of each reporting period.*
The action is divided into the following reporting periods:
RP1: from 1 March 2015 to 31 August 2016
RP2: from 1 September 2016 to 28 February 2017
Therefore, the deadline of 60 days for the first periodic report starts on 1 September 2016 and ends on 30 October 2016.
The deadline of 60 days for the second and last periodic report starts on 1 March 2017 and ends on 29 of April 2017.

2. Periods in months or years

Periods expressed in months or years end at midnight on the day with the same date as the day on which the period started, in the last month or year of the period.

Example: *Under Article 47, the Commission/Agency may suspend the payment deadline if a request for payment cannot be approved. The suspension takes effect on the day the Commission/Agency sends the notification. When the suspension exceeds two months, the coordinator may ask the Commission/Agency if it will continue. The Commission sent the notification for a grant payment deadline on 31 July 2016. Therefore, the suspension will have exceeded two months on 30 September 2016.*

If that day does not exist *(e.g. 31 of April)*, the period ends at midnight of the last day of that month (e.g. 30 of April).

Example: *Under Article 22.1.2, reviews may be started up to two years after the balance is paid. A grant's balance is paid on 29 February 2016. Therefore, the two-year period starts on 1 March 2016 and ends on 1 March 2018.*

ARTICLE 55 — AMENDMENTS TO THE AGREEMENT

ARTICLE 55 — AMENDMENTS TO THE AGREEMENT

55.1 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.

55.2 Procedure

The party requesting an amendment must submit a request for amendment signed in the electronic exchange system (see Article 52).

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

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 *[Commission][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 *[Commission][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.

1. Amendments

When & What?

An amendment is necessary whenever there is a need to **change** the GA (i.e. the core agreement and/or the Annexes).

⚠ The cases where an amendment is necessary are called 'amendment types' (AT); the amendment clauses are called 'AT clauses'.

⚠ The general terms and conditions of the GA can NOT be changed via an amendment. Only GA-specific data *(e.g. duration of the reporting periods, starting date, etc.)* and the options in the GA can be added, removed or updated via an amendment.

Examples:

1. *If the JRC should have been a beneficiary but then does not accede to the GA, the options related to the JRC will be removed.*

2. *If the JRC is added as a beneficiary during the action, the GA options related to the JRC will be added to the GA.*

3. *If a linked third party ends its participation, the option in Article 14.1 will be updated to set its 'end date of participation'.*

⚠ Amendments may NOT result in changes that — if known before awarding the grant — would have had an impact on the award decision. Those are mostly changes that:

- involve the consortium composition and have an impact on the eligibility criteria set out in General Annexes A and C to the Main Work Programme *(e.g. consortium of three entities established in three different Member States (BG, PL and FR) and replacement of the PL beneficiary by a BG beneficiary while the call required the representation in the consortium of at least three Member States)*
- involve changes to the action and/or its budget and affect the award criteria announced in the work programme/call *(e.g. the tasks in Annex 1 are changed so substantially that the action no longer corresponds to the scope of the call)*
- breach the principle of equal treatment of applicants
- do not comply with the rules applicable to the GA (i.e. Financial Regulation No 966/2012, Rules for Participation Regulation No 1290/2013, etc.) or with provisions of the GA itself *(e.g. amendment to subcontract tasks of the coordinator).*

⚠ **Information obligation — Changes** in the **name, address, legal form** and **organisation type** AND changes in the **legal, financial, technical, organisational** or **ownership situation** may or may not require an amendment *(see below)* — but they ALL trigger the information obligation under Article 17.2.

If such changes affect the implementation of the action and require an amendment, the Commission/Agency will examine the situation and inform the coordinator.

Examples (change that requires an amendment):

1. *Beneficiary A becomes bankrupt. It will be necessary terminate its participation and to amend the GA.*

2. *Beneficiary B moves from Europe to Australia during the action. The change of address implies that the beneficiary becomes not eligible for EU funding, so the GA will have to be amended to make it a 'beneficiary not receiving EU funding'.*

3. *Beneficiary C participates in an innovation action (IA) and loses its non-profit status during grant implementation. It will be necessary to amend the GA to change the reimbursement rate.*

Examples (change that does NOT require an amendment):

1. *Beneficiary D changes its name. The update in the Beneficiary Register is sufficient; no amendment is needed.*

2. *Beneficiary E participates in an SME instrument action and loses its SME-status during grant implementation. No amendment is needed because there is an explicit exception in Article 53(2) of the Rules for Participation Regulation No 1290/2013.*

Normally amendments are done at the initiative of the consortium, but they may also be proposed by the Commission/Agency *(e.g. where errors need to be corrected; to change Annex 1 after a review of the action, etc.).*

The amended provisions **become an integral part of the GA**; all other provisions remain unchanged and continue to have full effect.

ⓘ For more information on AT clauses (including required supporting documents and how amendment types can be combined) *see the Guidance – Amendment types & supporting documents.*

Sample list of cases where an amendment is necessary:

- **Removal of a beneficiary whose participation was terminated** due to **non-accession** to the GA or non-provision of the requested declaration on **joint and several liability** (**AT1**; *see Article 50.2 and 50.3*)

  What? Removal of a beneficiary that never became part of the GA.

  How? The amendment is normally triggered by the beneficiaries.

  In case of partner termination (by the beneficiaries), the notification of termination and amendment must be combined.

  If the coordinator is removed, the amendment has to propose a new coordinator (AT8).

  The changes will be made ex tunc (i.e. since the beginning) since the beneficiary never participated in the grant.

  If the beneficiary was participating with linked third parties/international partners, they will automatically be removed.

  GA options for the beneficiary (and its linked third parties/international partners) are automatically removed/changed/become not applicable *(e.g. linked third party options, non-EU beneficiary, JRC, IO, beneficiary receiving/not receiving EU funding)*.

  Annexes 1 and 2 will have to be changed (AT21 and AT31).

- **Removal of a beneficiary whose participation was terminated** for **other reasons** (**AT2**; *see Article 50.2 and 50.3*)

  What? Removal of a beneficiary during the action.

  What not? There is NO need to request an amendment if termination takes effect *after* the end of the action *(see Article 3)* — unless the beneficiary concerned is the coordinator AND the amendment is necessary to comply with the obligation to submit the reports and distribute the payments.

  How? The amendment is normally triggered by the beneficiaries.

  In case of partner termination (by the beneficiaries), the notification of termination and amendment must be combined.

  If the coordinator is removed, the amendment has to propose a new coordinator (AT8).

  Termination of the coordinator without its agreement — If the consortium terminates the coordinator without its agreement, it must provide proof of its decision to change the coordinator and nominate one of the beneficiaries to act on its behalf to request the amendment *(see Article 50.2 and below point 2).*

  Coordinator in bankruptcy/liquidation/administration (or similar) — If the coordinator must be changed but can no longer submit the request for amendment, the same procedure as for coordinator change without its agreement should be used.

  Changes will be made ex nunc (because the beneficiary participated in the grant up until termination and, moreover, many obligations are applicable after termination).

  The termination date will be added to the Preamble and the beneficiary will be entitled to submit costs until that date.

  If the beneficiary was participating with linked third parties/international partners, they will also have to be removed (with effect from the same date) and the end date of participation will be added to Article 14/Article 14a (AT5a/5b).

  By contrast, the GA options for the beneficiary (and its linked third parties/international partners) will NOT be removed/changed/become not applicable *(e.g. linked third party options, non-EU beneficiary, JRC, IO, beneficiary receiving/not receiving EU funding)*.

  Annexes 1 and 2 will normally have to be changed (AT21 and AT 31).

- **Adding a new beneficiary** (**AT 3**; *see Article 56.2*)

  What? Addition of a new beneficiary during the action.

  How? The amendment is normally triggered by the beneficiaries.

The new beneficiary must first register (and get validated) in the Beneficiary Register — unless it already has a validated participant identification code (PIC).

The accession date will be added to the Preamble of the GA and the beneficiary will be entitled to submit costs as from that date.

The date must be selected in the Accession Form (attached to the amendment request). It is possible to choose between:

- the date of signature of the Accession Form
- the date of entry into force of the amendment

OR

- a fixed date:
  - retroactive (before signature of the Accession Form)

  OR

  - future (after signature of the Accession Form — this should be an exceptional case with a justification).

Handover period — If a new beneficiary joins to replace a beneficiary that leaves, the accession date may be set before the termination date (of the beneficiary that is replaced) — so that *both* can incur costs for a certain period.

Example: *The former beneficiary ends its participation on 1.6.2015, and the new beneficiary accedes to the GA on 1.5.2015.*

If the new beneficiary is participating with linked third parties/international partners, they will also have to be added (with effect from the same date) and the starting date of participation will be added to Article 14/Article 14a (AT6a/6b).

The GA options for the beneficiary (and its linked third parties/international partners) will be added/changed/become applicable *(e.g. linked third party options, non-EU beneficiary, JRC, IO, beneficiary receiving/not receiving EU funding)*.

Annexes 1 and 2 will also have to be changed (AT21 and AT31).

- **Change of beneficiary due to partial takeover** (**AT4**; called 'partial transfer of rights and obligations' in FP7)

⚠ **Transfer —** The rights and obligations under the GA are transferred from the beneficiary to a new beneficiary — without passing via termination *(see Article 50)* or addition of a new beneficiary *(see Article 56)*.

This amendment type should, however, NOT be used if the former beneficiary does NOT leave the consortium (but stays on as part of the consortium). In this case, simply use the amendment clause for addition of a new beneficiary (AT3).

What? Transfer due to partial takeover.

'Partial takeover' means that a part of the business of the beneficiary — including the GA — is taken over by (one or more) other entity(ies) (transfer of a business unit as a going concern, *e.g. partial acquisition, distribution of a business unit after dissolution/liquidation, division/demerger, etc.*).

'Partial acquisition' means that the original entity continues to exist, but that a new entity purchases a department, business unit, or similar (and absorbs or takes over part of the rights and obligations of the original entity). Thus, *some* of the rights and obligations (and contracts) of the original entity are transferred to the new entity. Since the beneficiary continues to exist as a legal entity and only some of its rights and obligations are affected, a case-by-case analysis is needed (and an amendment therefore necessary).

Example: *Company X sells its mobile phone division to company Z; all GAs where the mobile phone division of X was involved will be affected by the transfer of rights and obligations; other GAs where other divisions of company X work will not be affected.*

'Distribution of a business unit on dissolution/liquidation' means that the original entity disappears (due to dissolution or liquidation), but that (one or more) new entities purchase a department, business unit or similar (and absorb or take over part of the rights and obligations of the original entity). Since only *some* of the beneficiary's rights and obligations are transferred, a case-by-case analysis is needed (and an amendment therefore necessary).

'Division/demerger' means that the original entity disappears and several entities replace it; different parts of the original entity are transferred to the new entities (i.e. several partial transfers to different entities).

Examples:

1. *Company X has several ongoing grants. Company X is bought by two other companies (Y & Z), one of which will absorb the mobile phone division and the other the remaining divisions. For some GAs there will be a transfer of rights and obligations from X to Y, for other GAs it will be from X to Z.*

2. *Company Ω has an ongoing grant (covering some action tasks to be implemented by its engineering division and some action tasks to be implemented by other divisions). Company Ω is bought by two other companies (E and O), one of which absorbs the engineering division and the other the remaining divisions. There are two partial takeovers: one to company E and one to company O.*

What not? Simple sale of (one or more) assets of the beneficiary is NOT a 'partial takeover'; it does not involve the transfer of the GA, but — at most — a transfer of (some) action tasks if the beneficiary can no longer fulfil its action tasks. In this latter case, also the sale of assets will require an amendment, in order to terminate participation of the beneficiary and/or add a new beneficiary.

Example: *Company Ω implementing two different tasks in an action (engineering and testing) sells the engineering department to company E with the understanding that E will implement the engineering tasks of Ω in the action. The GA will have to be amended to add company E as a new beneficiary; company Ω remains beneficiary in the GA for the other action tasks (e.g. testing). (If company E is already a beneficiary in the GA, the GA must be amended only to modify Annexes 1 and 2 to adjust the action tasks and the budget; it is not be necessary to add E as new beneficiary).*

Best practice: In case of doubt, the beneficiaries should contact the Commission/Agency (via the Participant Portal messaging function).

NO amendment is necessary for universal takeovers *(see below)*.

How? The amendment is normally triggered by the beneficiaries; if the Commission/Agency agrees, the new entity will replace the original entity as party to the GA (as new beneficiary).

'New beneficiary' is used here only for the purpose of the amendment; it can be either a new beneficiary joining the consortium or an already existing beneficiary who took over a part of the business of another beneficiary.

⚠The new beneficiary(ies) will (each) be fully **jointly and severally liable** with the former beneficiary for recoveries under Article 44. (By contrast: NO joint and several liability for debts linked to financial penalties and damages under Articles 45 and Article 46.)

If the new beneficiary joins the GA, it must first register (and get validated) in the Beneficiary Register — unless it already has a validated participant identification code (PIC).

If the partial takeover is governed by national law, the amendment request must clearly set out the legal situation and the consequences for the GA (both towards the Commission/Agency and towards the other beneficiaries). It must, in particular, explain the financial liability of the former beneficiary, attach a copy of the takeover contract and cite the applicable rules (with hyperlinks to the texts, if possible). Any elements that are not explained in the amendment request may not afterwards be held against the Commission/Agency.

The transfer date will be added to the Preamble of the GA.

The date must be selected in the amendment request. If the new beneficiary joins the action, the transfer date must be the same date as the accession date. Retroactive dates are only allowed in exceptional cases and with specific justification.

If the former beneficiary was participating with linked third parties/international partners, the new beneficiary will have to determine which of the former beneficiary's linked third parties/international partners stay on as linked third parties/international partners of the new beneficiary (AT6a/6b) — all other linked third parties/international partners will be automatically removed.

The GA options for the beneficiary (and its linked third parties/international partners) will be added/changed/become applicable *(e.g. linked third party options, non-EU beneficiary, beneficiary receiving/not receiving EU funding)*.

Annexes 1 and 2 will also have to be changed (AT21 and AT31).

The former beneficiary does NOT need to submit any reports to the Commission/Agency. The financial statement for the open reporting period until transfer must be uploaded with the next periodic report (by the new beneficiary, together with its own financial statement).

- **Removing a linked third party/international partner** (**AT5a/5b**; *see Articles 14 and 14a*)

  What? Removal of a linked third party/international partner during the action.

  How? The amendment is normally triggered by the beneficiaries.

  If requested by the Commission/Agency *(e.g. because of audit results or an OLAF investigation)*, the consortium MUST submit an amendment to remove a linked third party/international partner.

  > ⚠ If the consortium does not follow-up this request, the Commission/Agency may **terminate** the participation of the *beneficiary* (and thereby also remove the linked third party/international partner).

  NO termination notification — Linked third parties/international partners can be removed by the consortium by simple amendment; no formal termination notification is required (termination notification applies only to beneficiaries; *see Article 50.2*)

  Changes will be made ex nunc (because the linked third party/international partner participated in the grant up until removal and, moreover, many obligations are applicable after termination).

  The end date of participation will be added to Article 14/ 14a.

  The date must be selected in the amendment request. It must be either a fixed date or 'the day after the submission of the amendment request'. The fixed date must be in the future (i.e. after the request: end of participation can NOT be retroactive).

  The GA options for the linked third party/international partner will normally NOT be removed/changed/become not applicable.

  Annexes 1 and 2 will have to be changed (AT21 and AT 31).

- **Adding a linked third party/international partner** (**AT6a/6b**; *see Articles 14 and 14a*)

  What? Addition of a new linked third party/international partner during the action.

  How? The amendment is normally triggered by the beneficiaries.

  The new linked third party/international partner must first register (and get validated) in the Beneficiary Register — unless it already has a validated participant identification code (PIC).

  The name of the linked third party/international partner and the starting date of participation will be added to Article 14/14a.

  The date must be selected in the amendment request. It is possible to choose between a fixed date or the 'date of entry into force of the amendment'. If the linked third party/international partner joins the action at the same time as the beneficiary, the starting date of participation must be the same date as the accession date of the beneficiary.

  The GA options for the linked third party/international partner will be added/changed/become applicable.

  Annexes 1 and 2 will also have to be changed (AT21 and AT31).

- **Change concerning a beneficiary/linked third party 'not receiving EU funding'** (**AT7a**; *see Article 9*)

  What? If a beneficiary/linked third party — exceptionally — becomes eligible/not eligible for receiving EU funding during the action *(e.g. due to a change of establishment or a country changing eligibility status)* OR if it suddenly requests funding/zero funding, this change will require an amendment (to change Annex 1, Annex 2 and the options in Articles 9 and 57).

  Examples:

  1. *Beneficiary R moves from Europe to Australia and thus is no longer eligible for receiving EU funding. The GA must be amended. If R is participating with a linked third party M established in France, M will continue being eligible for funding.*

  2. *The country in which beneficiary X is established leaves the EU (without an agreement ensuring continued eligibility). The beneficiary is therefore no longer eligible for funding and the GA may have to be amended (or terminated; see Article 50).*

  3. *Beneficiary Y is eligible but signed the grant with zero funding. During the action the responsibilities within the consortium are shifted and beneficiary Y takes on a bigger role involving more costs. The other consortium members agree to adapt the budget and renounce to some funding in order to allow beneficiary Y to claim funding.*

  How? This amendment can normally be triggered only by the Commission/Agency.

- **Change of coordinator (AT8)**

  What? Replacement of the coordinator during the action *(e.g. because of financial difficulties)*.

  Exceptionally, an amendment remains possible and necessary *after* the end of the action *(see Article 3)* — until the payment of the balance is paid out and distributed.

  Coordinator in bankruptcy/liquidation/administration (or similar) — After the end of the action, if the coordinator can continue its participation with the bank account of the administrator/liquidator (i.e. termination and coordinator change not really needed), it is therefore exceptionally sufficient to change the bank account (AT40) without changing the coordinator.

  What not? There is NO need to request an amendment for a change of the *person* in charge of the coordination of the project (since the person's name is not mentioned in the GA).

  > ⚠ **Information obligation** — In case of a **change of person in charge of coordination**, the coordinator must — in addition to updating the data in the Participant Portal inform the Commission/Agency under Article 17.2).

  How? The amendment is normally triggered by the beneficiaries.

  If the new coordinator is not already a beneficiary of the GA, it must first accede to the GA as a new beneficiary (AT3).

  The former coordinator may continue to participate in the action as a normal beneficiary or may terminate its participation (AT2).

  Termination of the coordinator without its agreement — If the consortium terminates the coordinator without its agreement, it must provide proof of its decision to change the coordinator and nominate one of the beneficiaries to act on its behalf to request the amendment *(see Article 50.2 and below point 2).*

  Coordinator in bankruptcy/liquidation/administration (or similar) — If the coordinator must be changed but can no longer submit the amendment request, the same procedure as for coordinator change without its agreement should be used.

  The handover date will be added to the Preamble of the GA.

  The date must be selected in the amendment request. If the former coordinator leaves the consortium, this date must be after the termination date; if the new coordinator joins the consortium, the date must be after the accession date. Otherwise, it will be the date the amendment enters into force (i.e. date of the last signature of the amendment).

- **Change of the option for authorisation to administer** (**AT9a**; *see Article 41.2*)

What? Change concerning the authorisation to administer (i.e. delegation of administration tasks to a third party).

Example: *change of name of the entity with authorisation to administer*

- **Change of the coordinator's bank account for payments (AT40)**

What? An amendment is necessary for all changes that imply a change to the account number/IBAN code.

Example: *The coordinator changes bank account.*

What not? NO amendment is necessary for a change of the name of the bank or name of the account holder; a change of the bank account data (and validation) in the Participant Portal Beneficiary Register is sufficient.

How? The bank account data must first be updated in the Beneficiary Register (and be validated).

- **Change of the action's title and/or acronym (AT22)**

What? Change of the action title or acronym.

Example: *the consortium finds out that the acronym of their action is a protected trademark*

- **Change of the starting date, action duration or reporting periods (AT23, AT24, AT25)**

What? Change of the action's schedule (starting date, action duration or reporting periods).

Example: *The GA for the action has a fixed starting date that is before the date on which the GA enters into force. Because of weather conditions, the consortium cannot start on that date and requests the Commission to change it.*

⚠ Even if the action is prolonged, the maximum grant amount *(see Article 5.1)* will NOT be increased.

How? An extension of the action must be requested *before* the action ends and will only be accepted in exceptional cases.

- **Amendment for resuming the action after GA suspension (AT26)**

What? Amendment to resume the action after GA suspension.

How? The amendment request must specify the dates when the suspension started and ended. The action implementation is then automatically resumed as from the following day (resumption date).

- **Changes to Annex 1 (description of the action) (AT21)**

What? Changes to the description of the action, in particular:

  - significant change of the action tasks *(e.g. if tasks are added/removed)* or of their division among the beneficiaries
  - changes concerning in-kind contributions provided by third parties (against payment or free of charge) or subcontracts

    Such changes could in principle also be made via the 'simplified approval procedure' *(see Articles 11, 12 and 13*); however, if the beneficiary requests an amendment, it will immediately know if the Commission/Agency agrees (or not). Without amendment, this decision is left for later and the Commission/Agency may reject the costs as ineligible later on (at the moment of the payment).
  - changes concerning the tasks to be carried out by linked third parties and related costs (including if a linked third party is removed)
  - significant changes to the plan for exploitation and dissemination (unless Annex 1 already foresees an update to be submitted with the periodic report)
  - changes concerning GA options (options are removed or added, *e.g. adding the options to provide trans-national access to research infrastructure requires normally a modification of Annex 1 and/or Annex 2).*

- **Changes to Annex 2 and Annex 2a (estimated budget) or specific unit costs (AT31 and AT36)**

  What? Changes to the estimated budget, in particular:

  - a budget transfer of amounts between beneficiaries or between budget categories (or both) which are linked to a significant change in the action's work (i.e. Annex 1)
  - a budget transfer to a form of costs that is not used by the beneficiary (i.e. with 0 EUR costs in Annex 2) — except for transfer of amounts within the budget category A 'personnel costs' and for transfers to the budget category 'costs of internally invoiced goods and services'.

    Example:

    During the action implementation, the beneficiary decides to use the access costs for transnational access to research infrastructure unit cost. This requires an amendment to fix the unit cost and to move budget to budget category F.2.

  What not? There is NO need to request an amendment for changes covered by the budget transfers rule in Article 4.2 *(e.g. budget transfers within the personnel cost; see also below)*.

  How? The amendment is normally triggered by the beneficiaries.

  Best practice: If Annex 2a or specific unit costs need to be changed, the beneficiaries should contact the Commission/Agency (via the Participant Portal messaging function).

Sample list of cases where NO amendment is needed:

- **Budget transfers not listed above**

  Transfers of amounts between beneficiaries or between budget categories (or both) do NOT require an amendment, provided that the action is implemented in line with Annex 1 *(see Article 4.2)*.

  Budget transfers within the personnel cost category and budget transfers to costs of internally invoiced goods and services are possible without having to amend the GA.

  Examples:

  1. *During the action implementation, a beneficiary that declared its direct personnel costs as actual costs decides to change this and instead to declare them as unit costs in accordance with its usual accounting practices (average personnel costs).*

  2. *An SME joins an on-going GA. The SME owner does not have a salary but incorrectly budgets its costs as actual personnel costs (category A.1). He realises the mistake and then switches to the unit costs for SME owners (category A.4).*

- **Change of name, address or other legal entity data (of beneficiaries/linked third parties)**

  Simple changes of name, legal form *(e.g. Ltd., S.A.)*, official registration number, address, VAT number do NOT require an amendment; an update of the beneficiary data by the LEAR (and validation) in the Beneficiary Register is normally sufficient.

  Linked third parties/international partners — Since they normally do not have direct access to the Beneficiary Register, linked third parties/international partners must inform their beneficiary who must inform the Commission/Agency. The data will then be updated by the Commission/Agency (and validated).

  If — exceptionally — the Commission/Agency considers that the registered change affects the implementation of the action, it will inform the coordinator (and instruct it to request an amendment or trigger itself an amendment, if needed).

  Example: Company R moves from Europe to Australia and this implies that the beneficiary is no longer eligible for EU funding. In such a case, the Commission will make an amendment to the GA to change the beneficiary status into 'beneficiary not receiving EU funding'.

  Short names have no legal value and only serve as easy identifiers in the GA. If needed, they can be changed in the context of an amendment initiated on other grounds.

  A change of the person that represent the coordinator for the purposes of signing the GA requires NO follow-up at all (not even a change in the Beneficiary Register — since this name is only relevant at the moment of GA signature (not afterwards).

- **Change of beneficiary due to universal takeover** (called 'universal transfer of rights and obligations' in FP7).

  Transfers of the GA linked to a universal takeover (i.e. where the original entity is replaced by one new entity and all the rights and obligations — including the GA — are transferred to this new entity, *e.g. merger or full acquisition*) do NOT require an amendment; an update of the beneficiary data by the LEAR (and validation) in the Beneficiary Register is normally sufficient.

  Example: *Beneficiary X merges with another existing entity Y by:*

  - *becoming part of it (thus X and Y are together known as 'Y', and entity X ceases to exist) or*
  - *establishing a new separate legal entity (X and Y are together known as 'Z').*

  If — exceptionally — the Commission/Agency considers that the registered transfer affects the action implementation, it will inform the coordinator (and instruct it to request an amendment, if needed).

  Example:

  The legal form or type of organisation of the new entity differs from that of the former beneficiary or linked third party and this has an impact on the implementation of the action.

  Case 1: *The coordinator transfers all its rights and obligations to another legal entity. If this involves a change of the bank account number in Article 21.8, each GA in which it participates as coordinator must be amended to update this information (AT40).*

  Case 2: *A non-profit legal entity X is acquired by a big for-profit company Y; as a result of the acquisition Y assumes the rights and obligations of X in on-going innovation actions (IAs). The reimbursement rate applicable to Y in those on-going GAs will differ from that of X since the new beneficiary will not be entitled to a reimbursement rate of 100% (but only to a reimbursement rate of 70%). The GA must be amended to change the reimbursement rate (AT33) and the estimated budget (AT31).*
  For on-going RIA grants there will be no need to modify Annex 2 since the reimbursement rate is the same for all beneficiaries (100%).

⚠ **Information obligation** — In case of a **universal takeover**, the beneficiary must — in addition to updating the data in the Beneficiary Register— inform the coordinator (offline) under Article 17.2, if the universal takeover could:

- significantly affect or delay the implementation of the action or the EU's financial interests or
- affect the decision to award the grant or the compliance with requirements under the GA.

The coordinator must then inform the Commission/Agency (via the Participant Portal) and, if necessary, request an amendment.

The same applies if the universal takeover concerns a linked third party.

2. Procedure

How? Amendment requests must be **prepared** by the requesting party (i.e. the coordinator or the Commission/Agency) directly in the Participant Portal.

Best practice: If none of the available amendment clauses fit, beneficiaries should contact the Commission/Agency (via the Participant Portal messaging function), to discuss the amendment.

⚠ Before the amendment request, new beneficiaries, new linked third parties or other new beneficiary data must have been registered and validated in the Beneficiary Register.

Examples:

1. *A new beneficiary must be validated (legal entity validation). This means that the new beneficiary will first have to register in the Beneficiary Register, be validated, appoint a LEAR, and provide the necessary information and supporting documents through the Participant Portal.*

2. *Validation of the new bank account, to change the bank account.*

⚠ The amendment request must include the necessary information and supporting documents. A signed and submitted amendment request can NOT be changed — only accepted, rejected or withdrawn. It is however possible to provide clarifications or additional information/documents.

ℹ For more information on combination of amendment clauses and supporting documents, *see the Guidance – Amendment types & supporting documents.*

The **request** must be unambiguous and complete and submitted **in time** (i.e. sufficiently in advance to allow proper analysis and preparation before they are due to take effect and — generally — before the end of the action; *see Article 3*). Requests introduced AFTER the end of the action will be accepted only exceptionally, for very specific (duly substantiated) cases *(e.g. change of bank account, change of coordinator to make the payment of the balance)*.

The coordinator must ensure that it has the agreement of the consortium (in accordance with the internal decision-making processes, *e.g. unanimity, simple or qualified majority, etc. set out in the consortium agreement*).

Once completed, the request (with all its uploaded supporting documents) must be **submitted** and **signed** by the PLSIGN of the coordinator (on behalf of the other beneficiaries; *see Annex 3*).

Termination of the coordinator without its agreement — For change of coordinator without its agreement a special procedure applies: The other beneficiaries must nominate one of them to act on their behalf to notify termination and request the amendment. The nominated beneficiary must name a contact person (NoCo) responsible for the amendment.

Before it has been accepted or rejected, an amendment request may at any moment be **withdrawn**.

In order to **change** the amendment request, it must be withdrawn and re-submitted (changes to submitted requests are NOT possible).

Example: *The coordinator requests an amendment to change its bank account number and the reallocation of tasks in Annex 1 and of budget in Annex 2. Since the change of bank account is urgent because the Commission has to make the interim payment and the revision of the Annexes may require more time, the coordinator withdraws the request and makes a new request to change only the bank account and a second one to change the Annexes.*

A request containing several changes to the GA will be considered as one (and must either be agreed or rejected by the other party as a whole).

If the receiving party requests **additional information/documents**, a new deadline will apply, i.e. 45 days from receiving the additional information/documents.

Example: *The coordinator submits a request to add a new beneficiary with several linked third parties (see Article 14). The Commission requests a signed declaration for the joint and several liability of the linked third parties (Annex 3a). A new 45-day deadline for evaluation and validation will apply from the moment the Commission receives the declaration.*

The other party must — within **45 days** — **agree or disagree**.

The deadline may exceptionally be **extended** by the receiving party — for a period to be determined case-by-case —, if necessary for the assessment of the request *(e.g. a review is needed to assess the changes)*.

If **accepted** it will be **counter-signed** by the receiving party directly in the Participant Portal (for the consortium: by the PLSIGN of the coordinator).

If there is **no reaction** within the deadline, the request is considered to have been **rejected** (⚠ new in Horizon 2020: contrary to FP7, there is NO tacit approval of amendments). A new amendment request may however be submitted — even if it fully or partly repeats the initial request.

The amendment **enters into force** and is binding from the moment the receiving party has agreed to it (i.e. signed in the Participant Portal).

The amendment will **take effect** (i.e. the changes to the GA will start to apply) either:

- on the day of its entry into force (i.e. day of the last signature of the amendment) or
- on the specific date(s) indicated (and agreed) in the amendment.

The date should normally be *after* the entry into force of the amendment.

In justified cases it may — exceptionally — be *before* (retroactivity of the amendment). (In some cases, the GA itself provides for retroactivity.)

Examples (retroactivity allowed/foreseen in the GA):

1. *Where a new beneficiary is added to the GA (AT3), it must assume the rights and obligations from the accession date specified in the Accession Form. If this date is before the entry into force of the amendment, this retroactivity implies that its costs will be considered eligible as from the accession date (and not as from the entry into force of the amendment).*

2. *Following a suspension of the implementation of the action by the beneficiary or by the Commission, the suspension will be lifted with effect from the resumption date set out in the amendment (AT26). This date may be before the date on which the amendment enters into force (see Article 49.2.2).*

3. *If the amendment intends to correct an error (AT60), the change will be made with effect from entry into force of the GA (i.e. from the beginning).*

Depending on the amendment type, the date of taking effect may have an impact on the eligibility of costs.

An amendment request involving several changes, may take effect on different dates.

Example:

On 1 May 2016, the coordinator requests an amendment to change the bank account and to add a new beneficiary. The addition of the beneficiary takes effect from the date of its accession, as specified in the Accession Form (1 April 2016), while the change of bank account takes effect on a date agreed by the parties or on the date on which the amendment enters into force (i.e. 10 June 2016, the day it is signed by the receiving party).

ARTICLE 56 — ACCESSION TO THE AGREEMENT

MULTI-BENEFICIARY ARTICLE 56 — ACCESSION TO THE AGREEMENT

56.1 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 52) within 30 days after its entry into force (see Article 58) ***[OPTION if Article 14 applies and joint and several liability has been requested:*** *and for beneficiaries for which the [Commission][Agency] has requested joint and several liability of a linked third party, by also submitting — at accession — a declaration on joint and several liability (see Annex 3a) signed by the third party.****]***

They will assume the rights and obligations under the Agreement with effect from the date of its entry into force (see Article 58).

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 *[Commission's][Agency's]* right to terminate the Agreement (see Article 50).

1. Accession to the GA (beneficiaries mentioned in the Preamble)

All beneficiaries (except the coordinator) must accede to the GA by **signing** the **Accession Form** *(see Annex 3)* directly in the Participant Portal. They must do this **within 30 days** after the GA enters into force *(see Article 58)*.

Only the beneficiaries' legal signatories (PLSIGNs) may sign the Accession Forms.

Declarations on **joint and several liability** *(see Annex 3a)* must be signed by the linked third party *on paper* and send it to its beneficiary. The beneficiary must scan it and upload it in PDF format, before signing the Accession Form.

Without the declaration, it will NOT be able to accede to the GA (and thus NOT be considered a party to the GA).

Record-keeping — The beneficiary must keep the original of the linked third party in its files *(see Article 18.1.2)*.

Linked third parties do not become parties to the GA and therefore do NOT need to sign an Accession Form.

The coordinator is not obliged to **distribute hard copies of the GA** and Accession Form to the other beneficiaries (new in Horizon 2020). All documents are available in the Participant Portal project file.

Specific cases (accession):

JRC — If the JRC is beneficiary, it must sign Annex 3b as its Accession Form (instead of Annex 3).

56.2 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 55. It must include an Accession Form (see Annex 3) signed by the new beneficiary in the electronic exchange system (see Article 52).

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).

MONO-BENEFICIARY: ARTICLE 56 — ACCESSION TO THE AGREEMENT

Not applicable

1. Addition of new beneficiaries (amendment)

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

The new beneficiary must comply with the eligibility criteria of the work programme/call, have sufficient operational and financial capacity to perform the proposed tasks, comply with the non-exclusion criteria and commit to implement the action under the same terms and conditions as the other beneficiaries.

Article 56 does not apply to *mono*-beneficiary actions. Mono-beneficiary actions can therefore NOT become multi-beneficiary actions.

How?

The new beneficiary must:

- register in the Beneficiary Register and be validated — unless it already has a validated participant identification code (PIC)
- sign the Accession Form (directly in Participant Portal)
- provide a declaration on joint and several liability of its linked third party (if required by the Commission/Agency).

The coordinator must request an **amendment** for adding a new beneficiary (*see Article 55*).

The Accession Form (attached to the amendment request) must specify the **accession date**. It must be either:

- the date of signature of the Accession Form
- the date of entry into force of the Amendment

OR

- a fixed date:
  - either retroactive (i.e. before signature of the Accession Form)

  OR

- future (i.e. after signature of the Accession Form — this should be an exceptional case with a justification).

Handover period — If a new beneficiary joins to replace a beneficiary that leaves, the accession date may be set before the termination date (of the beneficiary that is replaced) — so that *both* can incur costs for a certain period.

ARTICLE 57 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

ARTICLE 57 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

57.1 Applicable law

The Agreement is governed by the applicable EU law, supplemented if necessary by the law of Belgium

[additional OPTION for international organisations that do not accept any applicable law clause: *As an exception, there is no applicable law for [insert name(s) of the international organisations concerned].]*

[additional OPTION for international organisations that would accept an applicable law clause but not the standard clause (EU + Belgian law): *As an exception, the Agreement is governed by a different applicable law for the following beneficiaries:*

- *[insert name(s) of the international organisations concerned]: [by the applicable EU law][, supplemented if necessary]**[**by the law of [Belgium][insert name of another Member State or EFTA country]**]**[and, where appropriate,][by the general principles governing the law of international organisations and the rules of general international law]*
- *insert name(s) of the international organisations concerned]: [by the applicable EU law][, supplemented if necessary]**[**by the law of [Belgium][insert name of another Member State or EFTA country]**]**[and, where appropriate,][by the general principles governing the law of international organisations and the rules of general international law]*

[same for other international organisations].]

1. Applicable law

As a general rule, H2020 GAs are subject to EU law (supplemented — where necessary — by Belgian law), for questions on their interpretation, application and validity.

Specific cases (applicable law):

International organisations (IOs) — If requested by the international organisation, the GA may provide for derogations:

Situation	Applicable law
For international organisations that do NOT accept any applicable law clause	No reference to any applicable law[70]. The applicable law will be determined by the Permanent Court of Arbitration *(see also point 2)*. According to the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States, the applicable law are:

[70] *See Article 180(1) of the Rules of Application Regulation No 1268/2012.*

	– the rules of the organisation concerned – the law applicable to any agreement or relationship between the parties and – where appropriate, the general principles governing the law of international organisations and the rules of general international law.
For international organisations that would accept an applicable law clause, but not the standard clause (EU + Belgian law)	The international organisation can choose any of the following combinations of applicable laws: – only EU law – only Belgian law – only other MS or EFTA country law – only general principles governing law of IOs + rules of general international law – EU law + MS or EFTA country law (except Belgium) – EU law + general principles governing law of IOs + rules of general international law – EU law + Belgian law + general principles governing law of IOs + rules of general international law – EU law + other MS or EFTA country law + general principles governing law of IOs + rules of general international law – Belgian law + general principles governing law of IOs + rules of general international law – other MS or EFTA country law + general principles governing law of IOs + rules of general international law

⚠ new in Horizon 2020: This is new compared to FP7, where (instead of a horizontal approach for all international organisations which cannot accept EU law) it was necessary to make specific provisions (special clause 3), in order to accommodate, for example, the participation of specialised agencies and international organisations of the UN family. It makes it easier for international organisations to participate in Horizon 2020.

57.2 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).

[additional OPTION for non-EU beneficiaries (except beneficiaries established in an associated country with an association agreement to Horizon 2020 that stipulates sole jurisdiction of the European Court of Justice)*: As an exception, if such a dispute is between the [Commission][Agency] and [insert non-EU beneficiary(ies) name(s)], the competent Belgian courts have sole jurisdiction.****]***

[additional OPTION for international organisations and for beneficiaries not eligible for EU funding, which according to their national law cannot be subject to the jurisdiction of the Belgian courts: *As an exception, for the following beneficiaries:*

- *[insert name of international organisation or beneficiary not eligible for EU funding]*
- *[insert name of international organisation or beneficiary not eligible for EU funding]*

[same for other beneficiaries that are international organisations or non-EU beneficiaries not eligible for EU funding]

*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. 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 sanctions, offsetting or an enforceable decision under Article 299 TFEU (see Articles 44, 45 and 46), the beneficiaries must bring action before the General Court — or, on appeal, the Court of Justice of the European Union — under Article 263 TFEU. [OPTION for Agency grants: Actions against offsetting and enforceable decisions must be brought against the Commission (not against the Agency).]

1. Dispute settlement

As a general rule, H2020 GAs contain an Article 272 TFEU arbitration clause — referring **disputes on the interpretation, application or validity of the GA** to the European Court of Justice.

An Article 272 action is ONLY possible once the Commission/Agency position is *final* (i.e. against confirmation letters, debit notes, etc.; NOT against audit reports, audit letters, pre-information letters, etc.).

For Commission grants, actions must be brought against the Commission; for Agency grants, they must be brought against the Agency.

For disputes of public law nature (i.e. which concern **administrative sanctions**, **offsetting** or **enforceable decisions** under Article 299 TFEU; *see Articles 44, 45 and 46*), actions must be brought before the European Court of Justice under Article 263 TFEU (NOT before any other court and NOT under Article 272).

⚠ **Public law measures** must ALWAYS be brought to the European Court of Justice under Article 263 TFEU (including actions brought by non-EU beneficiaries or beneficiaries not receiving EU funding).

⚠ All procedures are organised in a way that the beneficiaries will always be **informed** about what they can do if they disagree (**means of redress** information in the letters).

ℹ For more information on complaints, see the *Online Manual*

Specific cases (dispute settlement):

Non-EU beneficiaries — For non-EU beneficiaries, disputes on the interpretation, application or validity of the GA are normally referred to the competent Belgian courts. (So far (i.e. until end of 2016) NONE of the H2020 association agreements provides for the sole jurisdiction of the European Court of Justice.)

Disputes of public law nature remain before the European Court of Justice.

Beneficiaries not receiving EU funding — For beneficiaries that are not eligible for funding *(see Article 9)*, disputes on the interpretation, application or validity of the GA are referred to the Permanent Court of Arbitration *(see also point 1)* if their national law provides that they cannot be subject to the jurisdiction of the Belgian courts.

Otherwise they will be treated as normal non-EU beneficiaries (i.e. Belgian courts).

Disputes of public law nature remain before the European Court of Justice.

International organisations — For international organisations, disputes on the interpretation, application or validity of the GA are referred to the Permanent Court of Arbitration (in line, for instance, with the Financial and Administrative Framework Agreement (FAFA) with the United Nations[71]; *see also point 1*).

Disputes of public law will normally not arise, since international organisations are normally accorded immunity from public law decisions (under their constituent documents or international law). Such international organisations can therefore be subject only to contractual measures and to contractual dispute settlement (i.e. arbitration).

For this reason, the Commission/Agency will normally NOT adopt enforceable decisions under Article 299 TFEU *(see Article 44)* or decisions on administrative sanctions *(see Article 45).*

Similarly, offsetting will always be applied only as a contractual measure on the basis of Article 44 GA (NOT as a public law measure directly on the basis of Article 80(1) of the Financial Regulation No 966/2012).

For international organisations that have NO immunity, disputes of public law remain before the European Court of Justice.

[71] Financial and Administrative Framework Agreement concluded by the European Community, represented by the Commission, and the United Nations of 29.4.2003, as amended by Addendum No 1 of 22.1.2014 (C(2014) 238). Available at https://ec.europa.eu/europeaid/node/45445.

ARTICLE 58 — ENTRY INTO FORCE OF THE AGREEMENT

ARTICLE 58 — ENTRY INTO FORCE OF THE AGREEMENT

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

1. Entry into force

The GA enters into force when the last of the following two signs:

- the coordinator
- the Commission/Agency.

It is usually the Commission/Agency who signs last.

I.3 Issues applicable to particular countries

For countries for which it has carried out a formal assessment of specific situations or their legal framework, the Commission will keep record of its official position.

See the List of issues applicable to particular countries.

II. ERC MGAs

II.1 Background information and approach

The European Research Council (ERC) Model Grant Agreements are used for ERC actions only.

The ERC gives:

- 'frontier research grants', i.e.:
  - ERC Starting Grants (StG)
  - ERC Consolidator Grants (CoG)
  - ERC Advanced Grants (AdG)
  - ERC Synergy Grants (SyG)
- proof of concept grants (PoC) and
- Low value grants.

Frontier research actions use the H2020 ERC MGA; while two specific MGAs exist for ERC PoC and ERC Low value grants. Other ERC actions (coordination and support actions (CSA)) use the H2020 General MGA.

The ERC MGAs follow the General MGA for numbering and content, except for:

All ERC MGAs deviate from the General MGA as follows:

- 'Coordinator' is replaced by 'principal beneficiary' (also in the Annexes)
- *[Agency][Commission]* is replaced by 'Agency'
- References to/options for Euratom are taken out
- 'Technical report(s)' is replaced by 'scientific report(s)'
- The table of contents is adapted
- Cross-references in the footnotes are adapted

The H2020 ERC MGA deviates from the General MGA as follows:

- Preamble (ERC principal beneficiary and name(s) of the PI(s))
- Article 5.2 (ERC specific reimbursement rate)
- Article 7.1 (ERC reference to work under the guidance of the PI)
- Articles 11.1, 12.1, 13.1, 50.1.1, 50.1.2., 50.2.2, 50.3.1, 50.3.2., 50.3.3. (reference to financial or scientific reporting where necessary)
- Articles 15 and 16 (not applicable)
- Articles 20 and 21 (ERC specific articles on reporting and payment)
- Articles 25.4, 26.3, 27.3, 28.2, 29.2, 29.3, 29.4, 31.4, 31.6, 38.1.2, 38.2.1 (reference to the ERC funding, the ERC logo and the PI where necessary)
- Article 32 (Provisions on the working conditions for the PI and his/her team)
- Article 41.3 (Provisions on internal arrangements)
- Article 56 (Mono-beneficiary grant can become multi-beneficiary grant by addition of new beneficiaries)
- Article 56a (ERC-specific Article on portability)
- Annex 2 Model for the estimated budget for the action
- Annex 4 Model for the financial statements

The H2020 ERC MGA PoC deviates from the General MGA as follows:

- Preamble (ERC principal beneficiary and name(s) of the PI(s))
- Article 5.2 (ERC specific reimbursement rate)
- Article 7.1 (ERC reference to work under the guidance of the PI)
- Articles 11.1, 12.1, 13.1, 50.1.1, 50.1.2., 50.3.1, 50.3.2., 50.3.3. (reference to single or multi reporting where necessary)
- Articles 15 and 16 (not applicable)
- Articles 20 and 21 (ERC PoC specific articles on reporting and payment)
- Articles 26.3, 27.3, 28.2, 29.2, 29.3, 29.4, 31.6, 38.1.2, 38.2.1 (reference to the ERC funding, the ERC logo and the Principal Investigator where necessary)
- Article 41.3 (Provisions on internal arrangements)

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Articles 11.1, 12.1, 13.1, 50.1.1, 50.1.2., 50.2.2, 50.3.1, 50.3.2., 50.3.3., 15 and 16, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for ERC actions are added:

- Article 2 (ERC MGA actions; ERC MGA PoC actions)
- Article 4.1 (ERC MGA budget categories)
- Article 6 (ERC MGA eligible and ineligible costs)
- Article 8 (ERC MGA rules on third party involvement)

Since the ERC MGA and the ERC MGA PoC have a similar set-up (i.e. principal beneficiary, host institution, principal investigator) and provisions, the annotations of the ERC MGA PoC will be limited to major differences from the ERC MGA.

The annotations (for both MGAs) are based on the multi-beneficiary version. The differences between multi and mono-beneficiary versions are marginal.

II.2 H2020 ERC MGA: Annotations

GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

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

on the one part,

the **European Research Council Executive Agency (ERCEA)** ('the Agency'), under the power delegated by the European Commission ('the Commission'),

represented for the purposes of signature of this Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname][3],

and

on the other part,

1. 'the **principal beneficiary**':

[**full official name (short name)**] established in [official address in full], *[**OPTION for beneficiaries with VAT**: VAT number [insert number]]*, ***[OPTION for principal beneficiary not receiving EU funding:** as 'beneficiary not receiving EU funding' (see Article 9),]* represented for the purposes of signing the Agreement by [function, forename and surname], hosting [*and engaging*] the following

***[OPTION by default:** 'principal investigator':*[4]

- *[**Name**][Date and place of birth]]*[5]

***[OPTION for SyG and other ERC grants with more than one principal investigator:** 'corresponding principal investigator':*

- *[**Name**][Date and place of birth]*

*[and '**other principal investigator(s)**':*

- *[**Name**][Date and place of birth]*

- *[**Name**][Date and place of birth]].]*

and the following other **beneficiaries**, if they sign their 'Accession Form' (see Annex 3 and Article 56):

2. [**full official name (short name)**] established in [official address in full] *[**OPTION for beneficiaries with VAT**: VAT number [insert number]]*, ***[OPTION for SyG and other ERC grants with more than one principal investigator:** hosting [and engaging] the '**other principal investigator(s)**':*

- *[**Name**][Date and place of birth]*

- *[**Name**][Date and place of birth]*

[same for each beneficiary]

***[OPTION for beneficiaries not receiving EU funding:** X. [full official name (short name)], established in [official address in full] [**OPTION for beneficiaries with VAT**: VAT number [insert number]], as 'beneficiary not receiving EU funding' (see Article 9),]*

[same for each beneficiary]

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

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

[OPTION for SyG: and other ERC grants with more than one principal investigator*: Unless otherwise specified, references to 'principal investigator' or 'principal investigators' include the corresponding principal investigator.****]***

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 it 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

2a Additional information on the estimated budget

Annex 3 Accession Forms

[OPTION to be used if Article 14 applies and if joint and several liability has been requested by the Agency: *3a Declaration on joint and several liability of linked third parties****]***

[OPTION if the JRC participates: *3b Administrative Arrangement****]***

Annex 4 Model for the financial statements

Annex 5 Model for the certificate on the financial statements

Annex 6 Model for the certificate on the methodology

[3] The person representing the 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*'.

[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.

[5] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.

1. Participants: Principal beneficiary — Beneficiaries — Host institution

In ERC grants, the coordinator is called '**principal beneficiary**'.

The '**host institution (HI)**' is the beneficiary that hosts (and normally also engages) the '**principal investigator (PI)**' for at least the duration of the action.

2. Participants: Principal investigator(s)

For ERC grants, the main researcher (i.e. the principal investigator (PI)) is named in the GA.

PIs can be of any **nationality**, if they intend to conduct research in an EU Member State or H2020 associated country and are hosted (and usually engaged) by a host institution that is based in an EU Member State or H2020 associated country.

Due to the key role of the PI, s/he can NOT be replaced by any other researcher during the action. Requests for amendments to change the PI will be rejected.

The PI must comply with certain minimum requirements regarding working time on the action (fixed in Annex 1 and 2) and working time in an EU Member State or H2020 associated country (set out in the work programme/call; **PI time commitments**).

The Agency must be **informed** before any change in employment or location of the PI.

In case of breach, the Agency may terminate the GA or take any of the other Chapter 6 measures *(e.g. grant reduction, recovery of payments already made, etc.; see Articles 42-44, 47-50 H2020 General MGA).*

Should the PI move to another host institution (in an EU Member State or H2020 associated country), the GA can be transferred to the new host institution (**portability**; *see Article 56a*). If the PI moves to an institution established in a non-associated third country, the GA may be terminated *(see Article 50.1 H2020 General MGA)*.

PIs do not become party to the GA, but are key actors of ERC actions.

This leads to an asymmetrical relationship (in which the PI is the key actor in charge of the research activities, but it is the host institution that subscribes to the financial and legal obligations under the GA — since it is the beneficiary).

Examples:

1. A PI can choose its own research team. This team is the research team *of* the PI and thus different from that of a network or consortium. The engagement of the team follows the rules of the beneficiary and its country.

2. PIs must be supported by their host institution during the entire action duration.

In order to govern their internal relationship (during the action), PIs and their host institutions must sign a **supplementary agreement (SA)** *(see Article 32)*.

The supplementary agreement can NOT replace the employment/engagement contract and is not sufficient by itself.

Specific cases (PIs):

PI employed/engaged by a third party — Exceptionally, the PI may be employed/engaged not by the beneficiary but by a third party (from an EU Member State or H2020 associated country), i.e.:

- a third party that provides the PI as in-kind contribution or
- a linked third party *(see Article 8)*.

This must be specifically justified in the proposal and included in Annex 1.

In this case, the supplementary agreement *(see Article 32)* must be signed by the PI, the host institution AND the third party.

Retired PI — The PI may be retired.

Several PIs — ERC Synergy grants have several PIs (but only one principal beneficiary and one of the PIs that acts as 'correspondent PI'). Each host institution must conclude a supplementary agreement with the PI(s) they engage.

No supplementary agreement — NO supplementary agreement is needed for ERC PoC grants.

PI entitled to sign the supplementary agreement — If the PI is entitled to sign the supplementary agreement on behalf of the host institution (because of his/her position in the institution), the

supplementary agreement must be counter-signed by another person empowered by the institution. The principal investigator can NOT sign his/her own supplementary agreement for both parties.

Grant portability — If the GA is transferred to another host institution (*see Article 56a*) a new supplementary agreement must be signed with the new host institution (and forwarded to the Agency). The GA cannot be amended before the PI has sent the new supplementary agreement.

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. ERC frontier research actions

What? ERC frontier research grants fund:

- ground-breaking, high-gain/high-risk research at the frontiers of knowledge ('frontier research') in any field of research (except nuclear energy), by one (or more) principal investigator(s) and their research team.

ERC actions are normally mono-beneficiary actions, but can also be multi-beneficiary.

ERC actions are funded under Part I of Horizon 2020, 'European Research Council' *(e.g. ERC-2015-STG)*.

For more information on ERC actions, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual, the ERC home page or the ERC Work Programme and the call and topics pages of the call.*

For examples of successful ERC actions, see the *ERC website.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*). ***[OPTION to be used if Article 9 or 14a applies:*** *It also shows the estimated costs of the beneficiaries not receiving EU funding (see Article 9)] [and][international partners (see Article 14a)].]*

[…]

1. Budget categories

The ERC MGA uses in principle the same budget categories as the General MGA.

Budget categories of the ERC MGA:

- direct personnel costs
  - costs for employees (or equivalent)
  - costs for natural persons working under a direct contract
  - costs of personnel seconded by a third party against payment
  - costs for SME owners without salary
  - costs for beneficiaries that are natural persons without salary
- direct costs of subcontracting
- other direct costs
  - travel costs and related subsistence allowances
  - equipment costs
  - costs of other goods and services
  - capitalised and operating costs of large research infrastructure
  - costs of internally invoiced goods and services
- indirect costs.

Thus, the ERC MGA does NOT have:

- personnel costs for providing trans-national access to research infrastructure
- direct costs of providing financial support to third parties
- specific cost categories.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

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

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

[…]

5.2 Form of grant, reimbursement rates and forms of costs

The grant reimburses **100%** of the beneficiaries' *[and linked third parties']* eligible costs for the action (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**'):

(a) for **direct personnel costs**:

- as actually incurred costs ('**actual costs**') or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

Personnel **costs for SME owners** or **beneficiaries that are natural persons** not receiving a salary (see Article 6.2, Points A.4 and A.5) must be declared on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(b) for **direct costs of subcontracting**: as actually incurred costs (**actual costs**);

(c) **for direct costs of providing financial support to third parties**: not applicable;

(d) for **other direct costs**:

- for costs of internally invoiced goods and services: on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices (**unit costs**);
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **indirect costs**: on the basis of a flat-rate applied as set out in Article 6.2, Point E ('**flat-rate costs**');

(f) for **specific cost category(ies)**: not applicable.

[…]

1. Reimbursement rate

How much? For ERC actions, the reimbursement rate is set at **100 %** *(see the ERC Work Programme)*.

2. Cost forms

For ERC actions, the **cost forms** are in principle the **same** as in the **General MGA** *(see Article 5 H2020 General MGA)*.

However, the ERC MGA does not use all the **unit costs** and **flat-rates** of the General MGA:

Like the General MGA, it uses the unit cost for personnel costs on the basis of the beneficiaries' usual accounting practices (average personnel costs), the unit costs for SME owners and beneficiaries that are natural persons without salary, the unit costs for internally invoiced goods and services and the flat-rate of 25% for indirect costs.[72]

It does NOT use the unit costs of category F 'specific cost categories' of the General MGA.

[72] See *Article 29(1) and 33(2) of the Rules for Participation Regulation No 1290/2013 and Commission Decision C(2013) 8197 of 3 December 2013 authorising the use of reimbursement on the basis of unit costs for the personnel costs of the owners of small and medium-sized enterprises and beneficiaries that are natural persons not receiving a salary under the Horizon 2020 Framework Programme for Research and Innovation and under the Research and Training Programme of the European Atomic Energy Community (2014-2018). Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf.*

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

[…]

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. not applicable;
D. other direct costs;
E. indirect costs;
F. not applicable.

'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 E below).

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

[…]

6.5 Ineligible costs

'**Ineligible costs**' are:

[…]

(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, unless it can demonstrate that the operating grant does not cover any costs of the action *[.][;]*

[…]

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions per budget category.

The ERC MGAs use in principle the same budget categories (**covering** the same **types of costs)** as the General MGA *(see Article 6 H2020 General MGA)* — with the exception of categories C. 'financial support to third parties' and F 'specific cost categories'.

The same **eligibility conditions** and **calculation rules** apply as in the General MGA *(see Article 6 H2020 General MGA)*.

However, ERC grants have the **following specificities**:

– for category A 'personnel costs':

Costs for 'teaching buy-outs' — If the beneficiaries hire substitutes to perform some of the PI's duties that are not linked to the ERC grant *(e.g. teaching)*, these costs are NOT eligible.

PI employed/engaged by a third party — If the PI is employed/engaged by a third party (which thus pays his/her salary and seconds him/her to work on the premises of the beneficiary, for free or against reimbursement, the salary costs may be declared as direct personnel costs (if for free: under budget category A.1 'costs for employees (or equivalent)' (Article 6.2.A.1); if against payment: under budget category A.3 'seconded persons' (Article 6.2.A.3)).

– for category D 'other direct costs':

Recruitment costs — For ERC frontier research grants, recruitment costs, if clearly attributable to the action, are eligible as 'other direct costs', even for the unsuccessful candidates (because recruitment is part of the activities of such actions — unlike for actions under the General MGA or ERC PoC actions).

Purchase of scientific publications — Costs for scientific publications *(e.g. books, manuscripts, articles, digital copies, etc.)* may be eligible, if their direct link to the action and their necessity for the action is demonstrated.

Costs related to protection of the action's results — Are eligible. Given the increasing emphasis on the protection of inventions, the PIs are encouraged to protect their intellectual property rights properly. Costs related to protection of other intellectual property are NOT eligible.

Costs related to open access — Costs for open access to publications (including monographs) and to research data are eligible if incurred during the action duration. This includes costs charged by data repositories or data centres for the storage and maintenance of the research data generated by the action. With explicit agreement by the Agency, it can also include fees levied for a membership scheme (if this is a requirement for publishing with open access or if membership is a pre-condition for significantly lower article processing charges).

Costs related to scientists' visits — Short-term scientists' visits undertaken in the framework of an international agreement on scientific and technological cooperation (ERC Implementing Arrangements[73]) are eligible even if the scientist is not mentioned as a team member. Annex 1 does not need to be amended (i.e. the scientist and research visit do not need to be mentioned).

2. Ineligible costs

The rules on **ineligible costs** are the same as in the General MGA *(see Article 6.5 H2020 General MGA)*.

Combining H2020 & other EU grants — ERC grants do NOT prevent **PIs** from applying independently (i.e. in their own name) for further EU funding for other actions or for the same action, but for costs that are not eligible (or not declared) under the ERC grant.

The fact that the funding rate for ERC grants is 100% does not mean that the grant pays for 100% of the costs of the ERC action. Therefore cost items not declared under the ERC grant may be covered by other EU funding.

For more information on how to combine EU funding from different programmes, *see the Online Manual (links to Regional funding).*

[73] See http://erc.europa.eu/implementing-arrangements

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For ERC actions, the same rules on third party involvement apply as in the General MGA *(see Article 8 H2020 General MGA)*.

The PI must in principle, be hosted and engaged by the principal beneficiary. However, in exceptional cases, the PI can be engaged by a third party *(e.g. a third party that makes the PI available to work in the host institution; see Articles 11 and 12)*.

Example: *Research agencies that put the PIs at disposal of different universities.*

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

18.1 Obligation to keep records and other supporting documentation

[…]

18.1.2 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**: 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.

In addition, for **unit costs calculated in accordance with the beneficiary's usual cost accounting practices**, the beneficiaries must keep adequate records and documentation to prove that the cost accounting practices used comply with the conditions set out in Article 6.2.

The beneficiaries *[and linked third parties]* may submit to the Commission, for approval, a certificate (drawn up in accordance with Annex 6) stating that their usual cost accounting practices comply with these conditions ('**certificate on the methodology**'). If the certificate is approved, costs declared in line with this methodology will not be challenged subsequently, unless the beneficiaries have concealed information for the purpose of the approval.

(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 or on the basis of unit 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 14 applies**: For costs declared by linked third parties (see Article 14), it is the beneficiary that must keep the originals of the financial statements and the certificates on the financial statements of the linked third parties.]

[…]

1. Records for personnel costs — Hours worked for the action

For ERC actions, the same rules on record-keeping apply as in the General MGA *(see Article 18 H2020 General MGA)*.

In addition, the beneficiaries must prove that the **PI time commitments** *(see Preamble)* were respected, i.e.:

- for the percentage of total working time on the action:
  - if the PI works 100% of his/her total working time for the host institution, but only partially on the ERC action: by using time-sheets
  - if the PI works 100% of his/her total working time for the host institution and exclusively on the ERC action (during its entire duration): via a declaration signed by the beneficiary and the PI
  - if the PI works partly for other institutions (i.e. has working time outside the contract between PI and host institution): via a declaration signed by the beneficiary and the PI
- for the minimum percentage of total working time in an EU Member State or H2020 associated country: via a declaration signed by the beneficiary and the PI.

In the absence of this documentation, the ERC may accept alternative evidence, if it considers that it offers adequate level of assurance.

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The principal beneficiary must submit to the Agency (see Article 52) the scientific and financial reports set out in this Article. The financial report includes the requests for payments.

The reports must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

20.2 Scientific reporting — Reporting periods

The action is divided into the following '**scientific reporting periods'**:

- SRP1: from month 1 to month [X]
- ***[****- SRP2: from month [X+1] to month[Y]*
- *SRP3: from month [Y+1] to month [Z]*
- *[same for other SRPs]*
- *final SRP: from month [N+1] to [the last month of the project].****]***

The beneficiary must submit to the Agency a:

- '**periodic scientific report**' within 60 days after the end of each period (except the last one) and

- '**final scientific report**' within 60 days after the end of the last reporting period.

The **periodic scientific report** must include:

(a) information about the **scientific progress** of the work;

(b) **achievements and results** of the action, such as publications and a declaration of any major change of scientific strategy;

(c) information on whether and how open access has been provided to these results (see Article 29);

(d) a summary of the achievements of the action for publication by the Agency.

The **final scientific report** must:

(a) present the **final results, achievements and conclusions** of the action, and how they have been disseminated (including via scientific publications) (see Article 29);

(b) contain a summary of the achievements of the action, for publication by the Agency.

20.3 Financial reporting — Payment requests — Reporting periods

The action is divided into the following '**financial reporting periods**':

- FRP1: from month 1 to month [X]
- ***[****- FRP2: from month [X+1] to month[Y]*
- *FRP3: from month [Y+1] to month [Z]*
- *[same for other FRPs]*
- *final FRP: from month [N+1] to [the last month of the project].****]***

The beneficiary must— within 60 days after the end of each period — submit to the Agency a '**financial report**' for each reporting period.

The **financial report** must contain:

(a) information on the eligible costs, including a '**breakdown of direct costs table**' and a '**budget follow-up table**';

(b) an '**individual financial statement**' (see Annex 4) from the beneficiary *[and from each linked third party]* for the reporting period concerned.

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

The beneficiary [*and linked third parties*] must declare all eligible costs, even if — for actual costs, unit costs and flat-rate costs — they exceed the amounts indicated in the estimated budget (see Annex 2). Amounts which are not declared in a 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 final financial statements must also detail the **receipts of the action** (see Article 5.3.3).

The beneficiary *[and each linked third party]* 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 18) that will be produced upon request (see Article 17) or in the context of checks, audits and investigations (see Article 22), and
- for the last reporting period: that all the receipts have been declared (see Article 5.3.3);

(c) ***[OPTION 1 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 2**: not applicable;**]***

(d) a '**summary financial statement**', created automatically by the electronic exchange system, consolidating the individual financial statements for the reporting period concerned and including the **request for interim payment** (or — for the last financial reporting period — the **request for payment of the balance**);

(e) for the last financial reporting period only: a '**certificate on the financial statements**' (see Annex 5) for the beneficiary *[and linked third party]*, if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Article 6.2.

20.4 Currency for financial statements and conversion into euro

Financial statements must be drafted in euro.

Beneficiaries *[and linked third parties]* 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 linked third parties]* with accounting established in euro must convert costs incurred in another currency into euro according to its usual accounting practices.

20.5 Language of reports

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

20.6 Consequences of non-compliance

If the reports submitted do not comply with this Article, the Agency may suspend the payment deadline (see Article 47) and apply any of the other measures described in Chapter 6.

If the principal beneficiary breaches its obligation to submit the reports and if it fails to comply with this obligation within 30 days following a written reminder, the Agency may terminate the Agreement (see Article 50) or apply any of the other measures described in Chapter 6.

1. Reports

What & When?

For ERC actions, the principal beneficiary must submit both:

- a **periodic scientific report** after the end of each scientific reporting period (except the last one), with:
    - information about the scientific progress of the work
    - the achievements and results of the action, *such as publications and a declaration of any major change of scientific strategy*
    - information on whether and how open access has been provided to these results *(see Article 29)*
    - a summary of the achievements of the action, for publication by the Agency.
- a **final scientific report** at the end of the action, with:
    - the final results, achievements and conclusions of the action, and how they have been disseminated (including via scientific publications) *(see Article 29)*
    - a summary of the achievements of the action, for publication by the Agency.

Example: *For a five-year grant, there are two scientific reporting periods, so a 'periodic scientific report' is due for months 1-30 and a 'final scientific report' for months 31-60.*

In addition, the principal beneficiary must submit a **financial report** at the end of each financial reporting period, with:

- a narrative containing information on the eligible costs, including a breakdown of direct costs table and a budget follow-up table
- an individual financial statement
- a summary financial statement, created automatically by the IT system (on the basis of all financial statements submitted by the beneficiaries and linked third parties for the reporting period), which counts as the request of payment
- for the last financial reporting period only: a certificate on the financial statements (CFS).

Example: *For a five-year grant, there are four financial reporting periods, so a financial report is due for months 1-18, 19-36, 37-54 and 55-60.*

How?

All reports must be prepared and submitted directly in the Participant Portal, *see Article 20 H2020 General MGA*).

2. Reporting periods

Like for the General MGA, ERC actions are divided into reporting periods.

The ERC MGA has, however, different reporting periods for financial and scientific reports.

Their length is defined in the signed GA.

Normally, the financial reporting period is **18 months**, whereas scientific reports are due **halfway through** and at the **end** of the project.

Example: *For a five-year grant, there are four financial reporting periods (months 1-18, 19-36, 37-54 and 55-60) and two scientific reporting periods (months 1-30 and 31-60).*

Reports must be submitted within 60 days after each period ends.

ARTICLE 26 — OWNERSHIP OF RESULTS

ARTICLE 26 — OWNERSHIP OF RESULTS

[…]

26.3 Rights of third parties (including personnel and the principal investigator[s])

If third parties (including personnel and the principal investigator*[s]*) may claim rights to the results, the beneficiary concerned must ensure that it complies with its obligations under the Agreement.

If a third party generates results for a beneficiary, the beneficiary concerned must obtain all necessary rights (transfer, licences or other) from the third party, in order to be able to respect its obligations as if those results were generated by the beneficiary itself.

If obtaining the rights is impossible, the beneficiary must refrain from using the third party to generate the results.

[…]

1. Third parties with rights on results

For ERC actions, the same rules on third party rights apply as in the General MGA *(see Article 26 H2020 General MGA)*.

Due to the key role of the PI, it is however particularly important that agreements between the host institution and the PI allow the host institution to comply with its obligations under the GA — either by foreseeing a transfer of ownership to the host institution or by providing it with appropriate access rights (with a right to sub-license).

ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING

ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING […]

29.2 Open access to scientific publications

Each beneficiary must ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results.

In particular, it must:

(a) as soon as possible and at the latest on publication, deposit a machine-readable electronic copy of the published version or final peer-reviewed manuscript accepted for publication in a repository for scientific publications.

Moreover, the beneficiary must aim to deposit at the same time the research data needed to validate the results presented in the deposited scientific publications.

(b) ensure open access to the deposited publication — via the repository — at the latest:

(i) on publication, if an electronic version is available for free via the publisher, or

(ii) within six months of publication (twelve months for publications in the social sciences and humanities) in any other case.

(c) ensure open access — via the repository — to the bibliographic metadata that identify the deposited publication, which must include a persistent identifier.

29.3 Open access to research data

[OPTION 1 for actions participating in the Open Research Data Pilot (in line with the provisions in the ERC work programme)*: Regarding the digital research data generated in the action ('**data**'), the beneficiaries must:*

(a) deposit in a research data repository and take measures to make it possible for third parties to access, mine, exploit, reproduce and disseminate — free of charge for any user — the following:

(i) the data, including associated metadata, needed to validate the results presented in scientific publications as soon as possible;

*(ii) other data, including associated metadata, as specified in **the data management plan**;*

(b) provide information — via the repository — about tools and instruments at the disposal of the beneficiaries and necessary for validating the results (and — where possible — provide the tools and instruments themselves).

This does not change the obligation to protect results in Article 27, the confidentiality obligations in Article 36, the security obligations in Article 37 or the obligations to protect personal data in Article 39, all of which still apply.

*As an exception, the beneficiaries do not have to ensure open access to specific parts of their research data if the achievement of one of the action objectives, as described in Annex 1, would be jeopardised by making those specific parts of the research data openly accessible. In this case, the data management plan must contain the reasons for not giving access.**]***

[OPTION 2:** Not applicable**]

[…]

1. Open access to scientific publications

For ERC actions, the rules for open access to scientific publications are in principle the same as in the General MGA *(see Article 29 H2020 General MGA)*.

Beneficiaries must ensure **open, free-of-charge access** to the end-user to **peer-reviewed scientific publications** relating to their results.

'Peer-reviewed publications' means publications that have been evaluated by other scholars

⚠ Other types of publications, *such as non-peer-reviewed articles as well as non-peer reviewed monographs, books, conference proceedings and 'grey literature'* (i.e. informally published material not having gone through a standard publishing process, *e.g. reports*), are not covered by the open access obligation.

Best practice: However, to ensure fuller and wider access, beneficiaries are encouraged to provide open access also to these other types of scientific publications (where possible).

ERC grants have however the **following specificities**:

The ERC Scientific Council recommends the use of subject-specific repositories:

- for publications in the Life Sciences domain: Europe PubMed Central (http://europepmc.org)
- for publications in the Physical Sciences and Engineering domain: arXiv (http://arxiv.org).

If there is no appropriate discipline specific repository, researchers should make their publications available in institutional repositories or in centralized ones, such as Zenodo (http://zenodo.org). For monographs, book chapters and other long-text publications, the recommended repository is the OAPEN Library (http://oapen.org).

With explicit agreement by the Agency, the extended deadline for publications for grants in the social sciences and humanities domain (i.e. 12 months) can exceptionally be granted also for specific publications of grants in other domains, if the specific publication can be considered to relate to the social sciences and humanities. This must be requested within the 6 months originally foreseen.

Moreover, for publications after the end of the action, if beneficiaries cannot provide open access within the time limits set by Article 29.2 without incurring additional costs for gold open access, they may choose green open access with an extended embargo period which goes beyond six/twelve months.

Finally, the ERC MGA foresees lighter requirements for bibliographic metadata, focusing only on a persistent identifier (i.e. a stable address/marker to identify the publication, such as a digital object identifier (DOI)[74] or other systems).

Best practice: If the repository allows for this, beneficiaries of ERC grants are strongly encouraged to ensure that the bibliographic metadata also includes additional information such as the European Research Council (ERC) as funding source, the grant number, the title of the action and its acronym, the publication date, and the length of the embargo period (if applicable). For ease of tracking, beneficiaries should include the digital object identifier for the 'European Research Council' (http://dx.doi.org/10.13039/501100000781) in the funding acknowledgement field in their

[74] For more information, *see http://www.doi.org/*.

metadata, in addition to the digital object identifier for 'Horizon 2020' (http://dx.doi.org/10.13039/501100007601).

For more information, *see Open Access on the ERC website, the ERCEA Implementation Guidelines and the ERC Scientific Council's Open Access Guidelines for research results funded by the ERC.*

2. Open access to research data

This option will be inserted in the GA for ERC frontier research actions that participate in the Open Research Data Pilot (in line with provisions in the ERC Work Programme).

The rules on open access to research data are in principle the same as in the General MGA *(see Article 29 H2020 General MGA)*.

The ERC MGA has however the **following specificities**:

The data management plan (DMP) must be submitted using the ERC template and address the following issues:

1. Making data Findable
2. Making data openly Accessible
3. Making data Interoperable
4. Increase data Re-use
5. Allocations of resources and data security

Moreover the DMP can provide justification for NOT ensuring open access to specific parts of the research data. For ERC actions, the exception allowing beneficiaries not to give access to specific parts of their research data applies not only if this would jeopardise the *main* objective of the action, but *any* one of the action objectives.)

For ERC frontier research actions, the main objective is always a purely scientific one. The justification for non-disclosure therefore does NOT need to be the scientific objective of the action but can refer to other objectives, such as the intended later commercialisation of the scientific findings.

A first version of the data management plan must be submitted within the first 6 months of the project implementation and should then be updated during the lifetime of the project, as needed.

The beneficiaries may **opt out** of the pilot at any stage — both before signing the GA and afterwards (through an amendment; *see Article 55 H2020 General MGA)*. No reasons have to be provided for opting out. By opting out, they free themselves retroactively from the obligations associated with taking part in the pilot.

ARTICLE 32 — WORKING CONDITIONS FOR THE PRINCIPAL INVESTIGATOR*[S]* AND *[HIS/HER][THEIR]* TEAM

ARTICLE 32 — WORKING CONDITIONS FOR THE PRINCIPAL INVESTIGATOR*[S]* AND *[HIS/HER][THEIR]* TEAM

32.1 Obligations towards the principal investigator*[s]* and *[his/her][their]* team

The beneficiaries must respect the following **working conditions for the principal investigator*[s]* and *[his/her][their]* team**:

(a) take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers[28] — in particular regarding working conditions, transparent recruitment processes based on merit and career development — and ensure that the principal investigator*[s]*, researchers and third parties involved in the action are aware of them;

(b) enter — before signature of the Agreement — into a '**supplementary agreement**' with the*[ir]* principal investigator, that specifies:

(i) the obligation of the beneficiary to meet its obligations under the Agreement;

(ii) the obligation of the *[OPTION for SyG **and other ERC grants with more than one principal investigator**: corresponding]* principal investigator to supervise the scientific and technological implementation of the action *[OPTION for SyG **and other ERC grants with more than one principal investigator**: and the obligation of the other principal investigator(s) to supervise the scientific and technological implementation of their part of the action and to contribute to the overall proper implementation of the action]*;

(iii) the obligation of the *[OPTION for SyG **and other ERC grants with more than one principal investigator**: corresponding]* principal investigator to assume the responsibility for the scientific reporting for the beneficiary and contribute to the financial reporting *[OPTION for SyG **and other ERC grants with more than one principal investigator**: and the obligation of the other principal investigator(s) to contribute to the scientific and financial reporting]*;

(iv) the obligation of the principal investigator to meet the time commitments for implementing the action as described in Annex 1;

(v) the obligation of the principal investigator to apply the beneficiary's usual management practices;

(vi) the obligation of the principal investigator to inform the principal beneficiary ***[OPTION for SyG and other ERC grants with more than one principal investigator:** and, where applicable, his/her beneficiary and the other principal investigator(s)]* immediately of any events or circumstances likely to affect the Agreement (see Article 17) , such as:

- a planned transfer of the action (or part of it) to a new beneficiary (see Article 56a);
- any personal grounds affecting the implementation of the action;
- any changes in the information that was used as a basis for signing the supplementary agreement;
- any changes in the information that was used as a basis for awarding the grant;

(vii) the obligation of the principal investigator to ensure the visibility of EU funding in communications or publications and in applications for the protection of results (see Articles 27, 28, 29 and 38);

(viii) the obligation of the principal investigator to uphold the intellectual property rights of the beneficiary during the implementation of the action and afterwards;

(ix) the obligation of the principal investigator to maintain confidentiality (see Article 36);

(x) for a transfer of the action (or part of it) to a new beneficiary (see Article 56a): the obligation of the principal investigator to:

- propose to the principal beneficiary *[**OPTION for SyG and other ERC grants with more than one principal investigator:** and, where applicable, to his/her beneficiary]* (in writing) to what extent the action will be transferred and the details of the transfer arrangement *[**OPTION for SyG and other ERC grants with more than one principal investigator:** and, if the transfer is done by (one of) the other principal investigator(s), the obligation of the corresponding principal investigator to verify that the principal investigator has informed his/her beneficiary and the principal beneficiary];*

- provide a statement to the principal beneficiary *[**OPTION for SyG and other ERC grants with more than one principal investigator:** and, where applicable, his/her beneficiary]* with the detailed results of the research up to the time of transfer;

(xi) the right of the Commission and the Agency, the European Court of Auditors (ECA) and the European Anti-fraud Office (OLAF) to exercise their rights under Articles 22 and 23 also towards the principal investigator;

(xii) the applicable law and the country in which disputes must be settled;

(c) provide the principal investigator*[s]* with a copy of the signed Agreement;

(d) guarantee the principal investigator*[s]* scientific independence, in particular for the:

(i) use of the budget to achieve the scientific objectives;

(ii) authority to publish as senior author and invite as co-authors those who have contributed substantially to the work;

(iii) preparation of scientific reports for the action;

(iv) selection and supervision of the other team members (hosted *[and engaged]* by the beneficiary or other legal entities), in line with the profiles needed to conduct the research and in accordance with the beneficiary's usual management practices;

(v) possibility to apply independently for funding;

(vi) access to appropriate space and facilities for conducting the research;

(e) provide — during the implementation of the action — research support to the principal investigator*[s]* and the*[ir]* team members (regarding infrastructure, equipment, access rights, products and other services necessary for conducting the research);

(f) support the principal investigator*[s]* and provide administrative assistance, in particular for the:

(i) general management of the work and his/her team

(ii) scientific reporting, especially ensuring that the team members send their scientific results to the principal investigator*[s];*

(iii) financial reporting, especially providing timely and clear financial information;

(iv) application of the beneficiary's usual management practices;

(v) general logistics of the action;

(vi) access to the electronic exchange system (see Article 52);

(g) inform the principal investigator*[s]* immediately (in writing) of any events or circumstances likely to affect the Agreement (see Article 17);

(h) ensure that the principal investigator*[s]* enjoy*[s]* adequate:

(i) conditions for annual, sickness and parental leave;

(ii) occupational health and safety standards;

(iii) insurance under the general social security scheme, such as pension rights;

(i) allow the transfer of the Agreement to a new beneficiary ('portability'; see Article 56a).

[…]

[28] Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p.67).

1. Working conditions — Rights for the PI and his/her team

In view of the key role of the PI and his/her team in ERC actions, the ERC MGA foresees a series of obligations in order to guarantee best possible working conditions and scientific autonomy for them.

Main obligations (towards the PI):

- **Scientific autonomy**, to achieve the action's objectives under the best possible conditions, and within the time agreed
- **Competitive working conditions**, always in accordance with national law and institutional rules
- **Support for managing the action** *(e.g access to infrastructure; legal, financial and administrative support)*
- Access to and protection of **intellectual property rights**
- Allow and facilitate the transfer of the GA to another host institution (**grant portability**).

2. Supplementary agreement — Obligations on the PI

The ERC MGA foresees that the PI and its host institution must sign a supplementary agreement (SA), in order to formalise the commitments in the GA also towards the PI.

Main obligations (of the PI):

- **Supervision** of the scientific and technological implementation of the action
- Responsibility for the **scientific reporting** and contribution to the **financial reporting**
- Meeting the **time commitments** for implementing the action.

The PI must ensure a sufficient time commitment and presence throughout the course of the project to guarantee its proper execution.

The percentages for time commitments should be established by reference to the total productive hours worked by the PI for *all* his/her employers.

The total productive hours should be calculated in accordance with Article 6.

The percentages must be reached for the action duration (NOT annually or per reporting period).

- Applying the host institution's usual management practices
- Informing the principal beneficiary immediately of any events or circumstances likely to affect the GA
- Ensure the **visibility of EU funding**
- Upholding the **intellectual property rights** of the host institution

  This obligation is not limited to *respecting* the host institution's intellectual property rights (IPRs). The PI must *actively* inform it if s/he becomes aware of any violations.

  Example: *The PI reads a research article and discovers a violation of the host institution's project IPRs. S/he is obliged to inform the host institution.*
- Maintaining **confidentiality**.

The 'supplementary agreement' is an agreement between the host institution and the PI, to set out their internal arrangements for implementing the grant.

It is **purely internal**; the EU/Euratom is NOT party and has NO responsibility for it (nor for any adverse consequences).

It should cover all the practical issues that may arise in the context of the grant implementation (in particular the ones listed in Article 32.1(b)) and must remain in place at least for the action duration *(see Article 3)* (— without any interruptions, even if the PI works only part-time on the ERC project).

It must NOT contain any provisions **contrary to the GA**. (Provisions that contradict the GA are considered void and cannot be opposed to the Agency.)

It can NOT replace an employment or engagement contract between the PI and its host institution (which remain necessary under national labour and social laws).

It must be concluded **before GA signature** (or in case of portability before submission of the amendment request) and a copy must be sent to the Agency.

A template [ODT format] for a model supplementary agreement is available. (The model is not mandatory; beneficiaries may use other clauses, provided they benefit the research action and do not contradict the GA.)

Specific cases (supplementary agreement):

PI employed/engaged by a third party — The supplementary agreement must be signed by the PI, the host institution *and* the third party.

Several PIs — For ERC Synergy grants (i.e. ERC frontier research grants with several PIs), each host institution must conclude a supplementary agreement with the PI(s) they engage.

No supplementary agreement — NO supplementary agreement is needed for ERC PoC grants.

PI entitled to sign the supplementary agreement — If the PI is entitled to sign the supplementary agreement on behalf of the host institution (because of his/her position in the institution), the supplementary agreement must be counter-signed by another person empowered by the institution. The principal investigator can NOT sign his/her own supplementary agreement for both parties.

Grant portability — If the GA is transferred to another host institution *(see Article 56a)*, a new supplementary agreement must be signed with the new host institution (and forwarded to the Agency). The new agreement must take effect from the grant transfer date (or before). The GA cannot be amended before the PI has sent the new supplementary agreement.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

[…]

38.1.2 Information on EU funding — Obligation and right to use the EU emblem and the ERC logo

Unless the Agency requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the European Union emblem and the ERC logo and

(b) include the following text:

For communication activities: "This project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No [number])".

For infrastructure, equipment and major results: "This *[infrastructure][equipment][insert type of result]* is part of a project that has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No [number])".

When displayed together with another logo, the EU emblem and the ERC logo must have appropriate prominence.

For the purposes of their obligations under this Article, the beneficiaries may use the EU emblem and the ERC logo 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, the ERC logo or any similar trademark or logo, either by registration or by any other means.

[…]

1. Visibility of EU funding

For ERC actions, the same rules on visibility of EU funding apply as in the General MGA *(see Articles 27.3, 28.2, 29.4 and 38.1.2 H2020 General MGA)*.

In addition, the beneficiaries must however make **specific reference to the European Research Council (ERC)**. Thus, the clause acknowledging funding is slightly adapted and the beneficiaries must also use the ERC logo.

For more information on using the ERC logo, *see the ERC homepage*

ARTICLE 56 — ACCESSION TO THE AGREEMENT

MULTI-BENEFICIARY: ARTICLE 56 — ACCESSION TO THE AGREEMENT

56.1 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 52) within 30 days after its entry into force (see Article 58) ***[OPTION if Article 14 applies and joint and several liability has been requested:*** *and, for beneficiaries for which the [Commission][Agency] has requested joint and several liability of a linked third party, by also submitting — at accession — a declaration on joint and several liability (see Annex 3a) signed by the third party]*.

They will assume the rights and obligations under the Agreement with effect from the date of its entry into force (see Article 58).

If a beneficiary does not accede to the Agreement within the above deadline, the principal beneficiary 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 50).

56.2 Addition of new beneficiaries

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

For this purpose, the principal beneficiary must submit a request for amendment in accordance with Article 55. It must include an Accession Form (see Annex 3) signed by the new beneficiary in the electronic exchange system (see Article 52).

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).

MONO-BENEFICIARY: ARTICLE 56 — ACCESSION TO THE AGREEMENT

56.1 Addition of new beneficiaries

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

For this purpose, the beneficiary must submit a request for amendment in accordance with Article 55. It must include an Accession Form (see Annex 3) signed by the new beneficiary in the electronic exchange system (see Article 52).

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).

If a new beneficiary is added, the grant becomes a multi-beneficiary grant and ***[OPTION 1:*** *the preamble and the following Articles of the ERC Multi-beneficiary Model Grant Agreement will apply: […][…][…][same for further articles]****][OPTION 2:*** *the ERC Multi-beneficiary Model Grant Agreement will apply****].***

1. Addition of new beneficiaries

For ERC actions, the rules on addition of beneficiaries are in principle the same as in the General MGA *(see Article 56 H2020 General MGA)*.

However, unlike the General MGA, ERC *mono*-beneficiary grants can become *multi*-beneficiary grants, by addition of a new beneficiary according to this provision.

ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY — PORTABILITY OF THE GRANT

ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY — PORTABILITY OF THE GRANT

56a.1 Conditions

[The][A] principal investigator may request the transfer of the action (or his/her part of it) to a new beneficiary, provided that the objectives of the action remain achievable.

The principal beneficiary *[OPTION for SyG and other ERC grants with more than one principal investigator: or, where applicable, his/her beneficiary]* may object only on the basis that the transfer is not possible under national law.

56a.2 Procedure

The principal beneficiary must formally notify a request for amendment to the Agency (see Article 55).

56a.3 Effects

The former beneficiary must agree with the principal investigator and the new beneficiary on a plan to transfer the intellectual property rights under the Agreement to the new beneficiary

The Agency will request the former beneficiary to transfer to the new beneficiary any part of the pre-financing (see Article 21) not covered by an approved financial report.

If requested by the principal investigator, the Agency may require the former beneficiary to transfer to the new beneficiary the equipment purchased and used exclusively for the action (against reimbursement of the costs that have not yet been depreciated). The former beneficiary may object only on the basis that the transfer is not possible under national law.

1. Transfer of the GA (portability)

ERC grants can be **transferred** to a new host institution ('new beneficiary') — at any time during the action.

Transfer — The rights and obligations under the GA are transferred from the former host institution to a new host institution — without passing via termination (Article 50) or addition of a new beneficiary (Article 56).

NO transfer before the amendment has been accepted by the Agency. Transfers without a formal amendment are void and may result in GA termination. The former host institution remains fully responsible until the Agency has approved the amendment.

The transfer may be based on any **ground** that is beneficial for the PI and supports achieving the action's objectives.

The former host institution ('former beneficiary') may **oppose** a transfer only if it is not allowed under national law.

It may however **negotiate** transfer conditions (including transfer of team members, intellectual property rights and equipment) with the new host institution, taking into account the views of the PI.

2. Procedure

The PI should first contact the host institution that signed the GA (i.e. the former host institution).

> ⚠ **Record-keeping**
> **Best practice:** Beneficiaries and PIs should keep records of the consultation and decision-making process for each portability case.

The former host institution must submit a **request for amendment** to the Agency.

For the amendment the rules of the General MGA apply *(see Article 55 H2020 General MGA)*.

The **transfer date** will be added to the Preamble of the GA.

The date must be selected in the amendment request. If the new host institution joins the action, the transfer date must be the same date as the accession date. Retroactive dates are allowed, but only in exceptional cases and with a specific justification *(see Article 55 H2020 General MGA)*.

The **financial reporting periods** will be automatically adapted to match the transfer date (unless the transfer date coincides with the end of a financial reporting period).

Scientific reporting periods will usually remain unchanged (since the transfer normally has no effect on the scientific implementation of the action).

> ℹ For more information on the amendment (list of AT clauses, supporting documents and information on how amendment types can be combined) *see the Guidance – Amendment types & supporting documents.*

3. Effects

The principal beneficiary must — within 60 days from either the transfer date or the date of signature of the amendment whichever is the latest — submit:

- a financial report to the Agency (for the open period until transfer)
- a report on the distribution of payments (only in case of multi-beneficiary GA)
- if the costs reach the threshold set out in Article 20:, a certificate on the financial statement (CFS) (— even if this is not the last reporting period).

These documents will be used for calculating the interim payment due to the former beneficiary. The Agency will moreover instruct the former host institution to transfer the remaining pre-financing to the new host institution.

If the PI requests it, the Agency may require the former host institution to **transfer equipment** that was purchased and used exclusively for the action.

The former host institution may oppose this only if it is not possible under national law. It may however negotiate transfer conditions with the new host institution, taking into account the views of the PI.

Thus, the new host institution should make its best effort to buy the equipment fully used for the project. If it does so, it may declare the costs of this reimbursement (and any other

related costs, i.e. dismantling, transfer and installation), if they fulfil the eligibility conditions set out in Article 6.

Specific cases (portability):

Several PIs— In ERC synergy grants (i.e. ERC frontier research grants with several PIs), each PI has the right to transfer his/her part of the action. They must inform and consult the other PIs, to ensure that the action's objectives can still be achieved.

Former host institution remains beneficiary — If certain team members (or equipment) stay with the former host institution, while the PI moves to a new host institution, the GA is transferred and changed into a multi-beneficiary grant agreement (allowing both the former host institution and the new host institution to participate in the grant). The former host institution stays on as beneficiary, the organisation that hosts and engages the PI is the new host institution. If the former host institution remains only for a limited time *(e.g. to ensure a smooth handover)*, it can then be terminated at a later stage, via a partner termination *(see Article 50.2 H2020 General MGA)*.

II.3 H2020 ERC MGA PoC: Annotations

The H2020 ERC MGA PoC is very similar to the H2020 ERC MGA.

Like the ERC frontier research grants, the ERC PoC grants have a principal beneficiary (who is also the host institution) and a principal investigator.

There are however NO specific provisions on the working conditions of the PI and his/her team *(Article 32 H2020 ERC MGA)*, no supplementary agreement and no grant portability *(Article 56a H2020 ERC MGA*).

The following annotations will only highlight the biggest differences. For the rest, the annotations to the ERC MGA apply *mutatis mutandis*.

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. ERC PoC actions

What? ERC PoC funds:

- a 'proof of concept' to verify the innovation potential of an idea from an ERC frontier research project.

ERC PoC grants can cover any activities that develop research output towards new commercial or societal applications *(e.g. making a 'business plan', technical issues and overall direction, intellectual property rights positioning and strategy, budgeting and other commercial parameters; connections to later stage funding; establishing a company; demonstration, testing, prototyping, piloting, design).*

ERC PoC grants can NOT cover activities under the ERC frontier research grant *(e.g. dissemination or publications of the results of the ERC frontier research action; pure research, especially research with no commercial potential)* or activities which are the result of research not performed under the ERC actions *(e.g. results of research not funded by the ERC action)*.

ERC PoC actions are normally mono-beneficiary actions, but can also be multi-beneficiary.

ERC actions are funded under Part I of Horizon 2020, 'European Research Council' *(e.g. ERC-2015-PoC)*.

For more information on ERC actions, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual, the ERC home page or the ERC Work Programme and the call and topics pages of the call.*

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The principal beneficiary must submit to the Agency (see Article 52) the report(s) set out in this Article. The financial report(s), include(s) the request(s) for payments.

The report(s) must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

[OPTION 1 by default (for actions with one RP): 20.2 Reporting periods

The action has one reporting period:

- RP: from month 1 to month [X]

20.3 Report — Request for payment of the balance

The principal beneficiary must — within 60 days following the end of the reporting period — submit a report to the Agency.

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

(a) a summary for publication by the Agency;

*(b) an **overview of the results** of the action, including the deliverables identified in Annex 1 and explanations justifying the differences between the work expected to be carried out in accordance with Annex 1 and that actually carried out;*

*(c) detailed information on the costs declared, including a '**breakdown of direct costs table**';*

*(d) an '**individual financial statement**' (see Annex 4) from each beneficiary [and from each linked third party].*

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

The beneficiaries [and linked third parties] must declare all eligible costs, even if — for actual costs, unit costs 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.

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

*Each beneficiary [and each linked third party] 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 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22), and*
- *that all the receipts have been declared (see Article 5.3.3).*

(e) ***[OPTION A 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 B:*** *not applicable;****]***

*(f) a '**summary financial statement**', created automatically by the electronic exchange system, consolidating the individual financial statements for the reporting period concerned and including the **request for payment of the balance**;*

*(g) a '**certificate on the financial statements**' (drawn up in accordance with Annex 5) for each beneficiary [and linked third party], if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Article 6.2).****]***

[OPTION 2 for actions with several RPs: 20.2 Reporting periods

The action is divided into the following reporting periods:

- RP1: from month 1 to month [X]
[*- 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].****]***

20.3 <u>Reports</u> — Requests for interim payments and payment of balance

The principal beneficiary must — within 60 days following the end of each reporting period — submit a report to the Agency.

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

(a) a summary for publication by the Agency;

*(b) an **overview of the progress of work** towards the objectives of the action, including the deliverables identified in Annex 1 and explanations justifying the differences between work expected to be carried out in accordance with Annex 1 and that actually carried out;*

*(c) detailed information on the costs declared, including a '**breakdown of direct costs table**' and a '**budget follow-up table**';*

*(d) an **'individual financial statement'** (see Annex 4) from each beneficiary [and from each linked third party], for the reporting period concerned.*

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

The beneficiaries [and linked third parties] must declare all eligible costs, even if — for actual costs, unit costs 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 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 linked third party] 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 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22), and*
- *for the last reporting period: that all the receipts have been declared (see Article 5.3.3);*

*(e) **[OPTION A 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 B:** not applicable;**]***

*(f) a '**summary financial statement**', created automatically by the electronic exchange system, consolidating the individual financial statements for the reporting period concerned and including the **request for interim payment** (or — for the last reporting period — the **request for payment of the balance**);*

(g) for the last reporting period only:

- *an **overview of the results** of the action, including the deliverables identified in Annex 1 and explanations justifying the differences between the work expected to be carried out in accordance with Annex 1 and that actually carried out;*
- *a '**certificate on the financial statements**' (drawn up in accordance with Annex 5) for each beneficiary [and linked third party], if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Article 6.2).**]***

20.4 Currency for financial statements and conversion into euro

Financial statements must be drafted in euro.

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

20.5 Language of reports

The report(s) (including financial statements) must be submitted in the language of the Agreement.

20.6 Consequences of non-compliance

If the report(s) submitted do not comply with this Article, the Agency may suspend the deadline for payment (see Article 47) and apply any of the other measures described in Chapter 6.

If the principal beneficiary breaches its obligation to submit report(s) and if it fails to comply with this obligation within 30 days following a written reminder, the Agency may terminate the Agreement (see Article 50) or apply any of the other measures described in Chapter 6.

1. Report(s)

What & When?

For ERC PoC actions, the principal beneficiary must submit reports — only one **report** if there is one reporting period, otherwise one **periodic report** at the end of each reporting period.

The report (or periodic reports) must include the all of the following:

- a summary for publication by the Agency

  The summary is a brief description of the action, presenting its objectives and the results achieved. It must be easy to read and understandable to a non-specialised audience. This will enable the Agency to publish it on the Commission's website right away.

  The principal beneficiary must ensure that material submitted to the Agency for publication does not include any confidential material.

- an overview of progress towards the action's objectives (or an overview of the action's results for the last reporting period)

- information on the eligible costs, including a table showing the breakdown of direct costs and a budget follow-up table

- an individual financial statement.

In addition, a (periodic) summary financial statement, which counts as the request of payment, will be created automatically by the IT system, on the basis of all financial statements submitted by the beneficiaries and linked third parties for each reporting period.

Moreover, for the last reporting period, a certificate on the financial statements (CFS) will have to be added (if necessary).

How?

All reports must be prepared and submitted directly in the Participant Portal *(see Article 20 H2020 General MGA*).

2. Reporting period(s)

ERC PoC actions normally have only **one reporting period** (with one pre-financing payment; *see Article 21*).

As a general rule, this single reporting period lasts **18 months** (and thus the entire action duration).

If provided in the GA, an ERC PoC action may however also have more reporting periods.

III. Marie Skłodowska-Curie Actions (MSCA) MGAs

III.1 Background information and approach

The Marie Skłodowska-Curie Actions (MSCA) Model Grant Agreements are used for grants for MSCA only, i.e.:

- MSCA-ITN
- MSCA-IF
- MSCA-RISE and
- MSCA-COFUND.

The MSCA MGAs follow the General MGA for numbering and content, except for:

The H2020 MGA MSCA - ITN deviates from the General MGA - Multi as follows:

- Article 4.2 (MSCA-ITN specific conditions for budget transfers)
- Article 5.2 (specific reimbursement rate and form of costs)
- Article 5.3 (no Step 3 (reduction due to the no-profit rule))
- Article 6 (specific conditions for eligibility of costs)
- Article 8 (specific resources to implement the action)
- Articles 9-16, 41.4 and 41.5 (not applicable)
- Article 18.1.2 (record keeping only for number of units declared and amounts paid to researchers)
- Article 19 (MSCA-ITN specific deliverables)
- Articles 20.4 (no certificate)
- Article 20.6 (currency for financial statement)
- Article 21.7 (option for periodic instalments for distribution of payments by coordinator)
- Article 25.5 and 31.6 (access rights for researchers)
- Articles 27.3, 28.2, 29.2, 29.4 and 38.1.2 (reference to MSCA funding)
- Article 32 (specific obligations for recruitment and working conditions)
- Article 38.1.1 (reference to ‘mainstream media coverage’)

- Annex 2 Model for the estimated budget for the action (specific)
- Annex 4 Model for the financial statement (specific)
- Annexes 5 and 6 Not applicable

The H2020 MGA MSCA-IF deviates from the General MGA - Mono as follows:

- Article 3 (notified starting date)
- Articles 4.2, 9-16, 41.4 and 41.5 (not applicable)
- Article 5.2 (specific reimbursement rate and form of costs)
- Article 5.3 (no Step 3 (reduction due to the no-profit rule))
- Article 6 (specific conditions for eligibility of costs)
- Article 8 (specific resources to implement the action)
- Article 18.1.2 (record keeping only for number of units declared and amounts paid to researchers)
- Articles 20.3 and 20.4 (options for reporting in case of only one RP; no certificate)
- Article 20.6 (currency for financial statement)
- Article 25.5 and 31.6 (access rights for the researcher)
- Articles 27.3, 28.2, 29.2, 29.4 and 38.1.2 (reference to MSCA funding)
- Article 32 (specific obligations for recruitment and working conditions)
- Article 38.1.1 (reference to 'mainstream media coverage')
- Article 49.1 (MSCA-IF specific conditions for suspension of the action implementation)
- Article 50.3 (MSCA-IF specific conditions for termination)
- Article 55 (MSCA-IF specific conditions for amendments)
- Article 56a (MSCA-IF portability)

- Annex 2 Model for the estimated budget for the action (specific)
- Annex 4 Model for the financial statement (specific)
- Annexes 5 and 6 Not applicable

The H2020 MGA MSCA-RISE deviates from the General MGA - Multi as follows:

- Article 4.2 (specific conditions for budget transfer)
- Article 5.2 (specific reimbursement rate and form of costs)
- Article 5.3 (no 'Step 3 (reduction due to the no-profit rule)')
- Article 6 (specific conditions for eligibility of costs)
- Article 8 (specific resources to implement the action)
- Articles 9 - 16, 41.4 and 41.5 (not applicable)
- Article 18.1.2 (record keeping only for number of units declared)
- Article 19 (MSCA-RISE specific deliverables)
- Articles 20.4 (no certificate)
- Article 20.6 (currency for financial statement)
- Article 25.5 and 31.6 (access rights for staff members)
- Articles 27.3, 28.2, 29.2, 29.4 and 38.1.2 (reference to MSCA funding)
- Article 32 (MSCA specific obligations for recruitment and working conditions)
- Article 38.1.1 (reference to 'mainstream media coverage')

- Annex 2 Model for the estimated budget for the action (specific)
- Annex 4 Model for the financial statement (specific)
- Annexes 5 and 6 Not applicable

The H2020 MSCA-COFUND deviates from the General MGA - Mono as follows:

- Article 4.2 (not applicable)
- Article 5.2 (specific reimbursement rate and form of costs)
- Article 5.3 (no 'Step 3 (reduction due to the no-profit rule))
- Article 6 (specific conditions for eligibility of costs)
- Article 8 (specific resources to implement the action)
- Articles 9-14, 16, 32, 41.4 and 41.5 (not applicable)
- Article 15 (provisions for support to or implementation of a programme)
- Article 18.1.2 (record keeping only for number of units declared and amounts paid to researchers)
- Article 19 (MSCA-COFUND specific deliverables)
- Article 20.4 (no certificate)
- Article 20.6 (currency for financial statement)
- Article 25.5 (access rights for the researcher)
- Articles 27.3, 28.2, 29.2, 29.4 and 38.1.2 (reference to MSCA funding)
- Article 38.1.1 (reference to 'mainstream media coverage')

- Annex 2 Model for the estimated budget for the action (specific)
- Annex 4 Model for the financial statement (specific)
- Annexes 3, 5 and 6 Not applicable

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Articles 9-14, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for MSCA are added:

- Article 2 (MSCA-ITN; MSCA-IF; MSCA-RISE; MSCA-COFUND)
- Article 4.1 (MSCA-ITN budget categories; MSCA-IF budget categories ; MSCA-RISE budget categories; MSCA-COFUND budget categories)
- Article 8 (MSCA-ITN rules on third party involvement; MSCA-IF rules on third party involvement; MSCA-RISE rules on third party involvement; MSCA-COFUND rules on third party involvement)

III.2 H2020 MGA MSCA-ITN: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

ARTICLE 2 — ACTION TO BE IMPLEMENTED *[— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]*

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

1. Action: MSCA-ITN

What? MSCA-ITN funds:

- joint research training and/or doctoral programmes for early-stage researchers (implemented by networks of beneficiaries from the academic and the non-academic sector from different countries).

MSCA-ITN takes the form of European Training Networks (ETN), European Industrial Doctorates (EID) or European Joint Doctorates (EJD).

MSCA-ITN are multi-beneficiary actions.

They are funded under Part I of Horizon 2020, 'Marie Skłodowska-Curie actions' *(e.g. H2020-MSCA-ITN-2015)*.

For more information on MSCA-ITN, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the Main Work Programme — MSCA and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 **budget category** (see Articles 5, 6).

4.2 Budget transfers

The estimated budget breakdown indicated in Annex 2 may be adjusted by transfers of amounts between beneficiaries. This does not require an amendment according to Article 55, if the action is implemented as described in Annex 1.

***[OPTION for all actions except EID with only two beneficiaries:** However, no more than 40% of the maximum grant amount (see Article 5.1) may be allocated to beneficiaries located in the same country or to any one international European interest organisation or international organisation.]*

1. Budget categories

The MSCA-ITN MGA does not use the budget categories of the General MGA.

Budget categories of the MSCA-ITN MGA:

- costs for recruited researchers
- institutional costs.

The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

2. Budget transfers

The beneficiaries may redistribute person-months between *them* (as compared with the original planning set out in Annex 2). This redistribution can be done without requesting an amendment *(see Article 55 H2020 General MGA)* — provided that it does not imply a substantial change to the action as described in Annex 1.

The maximum grant amount *(see Article 5)* can however **NEVER** be **increased**.

Best practice: The coordinator should **inform** the Agency in advance of any redistribution of person-months, in order to establish if an amendment is needed. Changes that only concern the consortium-internal arrangements on the redistribution of the unit costs for management and indirect costs do NOT need to be notified to the Agency.

***Example:** Beneficiary X was unable to implement six person-months, so the consortium informs REA of a redistribution of these months to beneficiary Y. REA agreed to this, but since beneficiary Y is located in a country where a higher country coefficient correction applies than in the country of beneficiary X, the budget transfer can only give 4.5 months to beneficiary Y.*

A redistribution of person-months will also have an impact on the institutional unit costs (since they are also paid according to the person-months declared for recruited researchers).

Redistributions are subject to the following:

- no impact on the action as described in Annex 1

  If the transfer of person-months implies a substantial change of Annex 1, a formal amendment *(see Article 55)* is required.

- correct application of the country correction coefficient

- the minimum and maximum recruitment durations per researcher

- for all actions except for EID with only two beneficiaries: a maximum of 40 % of the budget may be allocated to beneficiaries established in the same country (or to the same international European interest organisation or international organisation).

  The 40% is determined on the basis of the maximum grant amount.

  Example: *In an action with a maximum grant amount of EUR 3 000 000, beneficiaries from one country may not receive more than EUR 1 200 000 (= 40%). If the final grant amount is lower (e.g. because beneficiaries from other countries implement less person-months than expected) the original 40% ceiling of EUR 1 200 000 will be maintained (beneficiaries will not be penalised for the non-execution of person-months by other beneficiaries).*

Transfers between *budget categories* are formally NOT possible, because all budget categories are linked to the *same* person-months declared for the recruited researchers (and it is therefore technically not possible to move budgeted amounts from one budget category to another).

Budget flexibility — There is however some flexibility as regards the *use* of the amounts received:

- Redistributions of institutional unit costs within the consortium are allowed, but should be done via an internal agreement.
- Institutional unit costs should be shared with entities with a capital or legal link which incurred costs for research training activities AND with partner organisations which incurred costs for hosting secondments *(see Article 8)*.
- Research, training and networking unit costs should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes (*e.g. to increase the salary of a researcher or to organise additional training activities)*.
- Unit costs for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes (*e.g. to increase the salary of a researcher)*.

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

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM 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 rate and form of costs

The grant reimburses **100 %** 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 form ('**form of costs**'):

(a) for **costs for recruited researchers** (living, mobility and family allowances): on the basis of the amount(s) per unit set out in Annex 2 ('**unit costs'**) and

(b) for **institutional costs** (research, training and networking costs and management and indirect costs): on the basis of the amount per unit set out in Annex 2 (**unit costs**).

1. Maximum grant amount

The maximum grant amount set out in this Article can NOT be exceeded.

For MSCA-ITN, the maximum grant amount is limited to a maximum unit cost equivalent of 540 person-months (and for EID with only two beneficiaries: 180 person-months).

2. Reimbursement rate

How much? For MSCA-ITN, the reimbursement rate is set at **100 %** *(see the Main Work Programme — MSCA)*.

3. Cost forms

The MSCA MGAs do not use the **cost forms** of the General MGA, but the **unit costs** set out in Decision C(2013) 8194[75].

For MSCA-ITN, these are unit costs for:

[75] Commission Decision C(2013) 8194 authorising the use of reimbursement on the basis of unit costs authorising the use of reimbursement on the basis of unit costs for Marie Skłodowska-Curie actions under the Horizon 2020 Framework Programme. Available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

- costs for recruited researchers: living allowance, mobility allowance and family allowance (if applicable)
- institutional costs: research, training and networking costs and management and indirect costs.

These are fixed amounts that must be multiplied by the number of months the recruited researchers spent on research training activities (person-months); they can NOT be changed.

The eligibility conditions are set out in *Article 6*.

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 (see Article 21.4) — 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 substantial errors, irregularities or fraud or serious breach of obligations

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

The reimbursement rate (see Article 5.2) is applied to eligible costs (unit costs; see Article 6) declared by the beneficiaries and approved by the Agency (see Article 21).

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 substantial errors, irregularities or fraud or serious breach of obligations — Reduced grant amount — Calculation

If the grant is reduced (see Article 43), the Agency will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) 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 and 2 or
- the reduced grant amount following Step 3.

[…]

1. Final grant amount

For MSCA, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since MSCA grants use only unit costs, there is NO reduction due to the no-profit rule in MSCA MGAs (Step 3 of Article 5.3 of the General MGA).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

Unit costs are eligible ('eligible costs') if:

(a) they are calculated as follows:

{amounts per unit set out in Annex 2

multiplied by

the number of actual units}.

(b) the number of actual units complies with the following:

- the units must be actually used or produced in the period set out in Article 3;
- the units must be necessary for implementing the action or produced by it, and
- the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18).

1. Eligible costs

The grant can **only reimburse eligible costs** (i.e. costs that comply with the general and specific conditions set out in this Article) ('**reimbursement of eligible costs grant**').

⚠ ONLY **eligible costs** may be entered into the estimated budget for the action *(see Article 4)* or declared in the financial statements *(see Article 20)*.

Record-keeping & burden of proof — The **burden of proof** for eligibility is on the beneficiaries. They must keep sufficient supporting documents *(see Article 18)* to show that the person-months they declare are eligible.

Compliance with eligibility rules may be subject to a **check or audit** by the Commission/Agency. Any ineligible costs found will be **rejected** *(see Article 42)*.

Article 6.1 refers to general eligibility conditions, applicable per cost form (for MSCA: only unit costs; *see Article 5 H2020 General MGA*).

Article 6.2 refers to specific eligibility conditions, applicable per budget category *(see Article 4)*.

2. General conditions for unit costs to be eligible

The general conditions for eligibility of unit costs are the same as in the General MGA *(see Article 6.1 H2020 General MGA)*.

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 two budget categories:

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The MSCA MGAs have their **own budget categories**, with their own **types of costs**, **eligibility conditions** and **calculation rules**.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

- types of costs covered by the budget category
- cost form under which the costs must be declared (for MSCA: unit costs)
- eligibility conditions
- how the costs must be calculated.

A. <u>Costs for recruited researchers</u> (A.1 Living allowance, A.2 Mobility allowance and A.3 Family allowance) are eligible, if:

(a) the number of units declared:

(i) corresponds to the actual number of months spent by the recruited researchers on the research training activities and

(ii) does not exceed 36 months (per researcher)*[;][, and]*

(iii) ***[OPTION for EID:** are, for each researcher, spent to at least 50% with one or more beneficiaries or partner organisations from the non-academic sector.**]***

(b) the recruited researchers comply with the following conditions:

(i) be recruited by the beneficiary under an **employment contract** (or other direct contract with equivalent benefits, including social security coverage) or — if not otherwise possible under national law — under a fixed-amount-fellowship agreement with minimum social security coverage;

(ii) be employed for at least 3 months;

(iii) be employed full-time, unless the Agency has approved a part-time employment for personal or family reasons;

(iv) be working exclusively for the action;

(v) not have resided in the country of the recruiting beneficiary for more than 12 months in the 3 years immediately before the recruitment date (and not have carried out their main activity (work, studies, etc.) in that country) – unless as part of a procedure for obtaining refugee status under the Geneva Convention[6].

For beneficiaries that are international European interest organisations or international organisations: not have spent with the beneficiary more than 12 months in the 3 years immediately before the recruitment date.

(vi) be — at the date of recruitment — an '**early stage researcher**' (i.e. in the first four years of his/her research career and not have a doctoral degree);

(vii) ***[OPTION for 1 EJD:** be enrolled in a doctoral programme leading to the award of a joint, multiple or double degree [;][.]**]***

(viii) ***[OPTION for 2 EID:** be enrolled in a doctoral programme.**]***

(c) the costs have been fully incurred for the benefit of the recruited researchers.

This latter condition is met if:

{{{**total remuneration costs** (salaries, social security contributions, taxes and other costs included in the remuneration under the employment contract or other direct contract) or **total fixed-amount fellowship costs** for the researcher during the action

plus

total mobility costs (household, relocation and travel expenses and, if they must be paid under national law, taxes, duties and social security contributions) for the researcher during the action}

plus

total family costs for the researcher during the action**}**

divided by

the number of actual units**}**

is equal to or higher than the following amount:

{{amount per unit cost set out in Annex 2 as living allowance

plus

amount per unit cost set out in Annex 2 as mobility allowance}

plus

if it is due, amount per unit cost set out in Annex 2 as family allowance**}**.

The family allowance is due if the researcher has a family at the time of recruitment.

'Family' means persons linked to the researcher by marriage (or a relationship with equivalent status to a marriage recognised by the legislation of the country where this relationship was formalised) or dependent children who are actually being maintained by the researcher.

[6] 1951 Refugee Convention and the 1967 Protocol.

1. Researcher costs (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the costs for the recruited researchers, by providing for:

- a monthly living allowance (A.1) — to cover the employment or fixed-amount fellowship with social security coverage (i.e. gross amount, including compulsory deductions under national law, *such as employer/employee social security contributions and direct taxes*)
- a monthly mobility allowance (A.2) — to cover costs related to their mobility *(e.g. relating to travel and accommodation)*

  This allowance covers *private* costs of the researchers, not professional costs (which are covered by budget category B.1 'research, training and networking costs')

AND

- a monthly family allowance (A.3) — for researchers with family, to reduce family-related obstacles to researcher mobility.

⚠ **Budget flexibility** — There is NO flexibility as regards the *use* of the researcher unit costs (i.e. living, mobility and family allowances). They must be fully used for each researcher; they can NOT be used to pay other researchers or other types of costs *(see Article 6.2.A(c))*.

What not? Management and indirect costs of the beneficiaries are not covered under this budget category; they are covered under category B 'institutional costs' (*Article 6.2.B*).

Example: *Costs for student registration, access to student services (library, computing, etc.), teaching, supervision, examination and graduation can only be covered by the institutional unit costs.*

1.2 The costs must be **declared** as the unit costs fixed by Decision C(2013) 8194[76] and set out in Annex 2 and 2a of the GA.

This is currently:

[76] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

– for the living allowance: **EUR 3 110** per researcher per month (person-month)

To ensure equal treatment and purchasing power parity for all researchers, the amount for the living allowance is adapted per country, by applying a **country-specific correction coefficient**.

The list of coefficients is published in the Main Work Programme — MSCA in force at the time of the call.

On the basis of this list, the beneficiaries must determine the coefficient for each researcher when s/he is recruited — according to the country of recruitment. This coefficient normally does NOT change during the action (unless the researcher is formally employed — not only seconded to — by another beneficiary in another country during the action).

– for the mobility allowance: **EUR 600** per person-month

– for the family allowance: **EUR 500** per person-month.

For the latest information on the amounts and the country correction coefficients, *see the Main Work Programme — MSCA in force at the time of the call.*

In practice, the declaration of costs for MSCA grants is very simple and almost completely automatized: The beneficiaries must only indicate the number of implemented person-months (for researchers recruited under the action) and the costs are then automatically calculated by the IT system.

1.3 The costs (in practice for MSCA: the person-months) must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. the declared number of person-months must be linked to the implementation of the action, be incurred during the action duration, be identifiable and verifiable, etc.; *see Article 6.1*)

  Costs NOT incurred during the periods of research training activities *(e.g. during maternity/parental leave)* are ineligible.

- be incurred for researchers that:

  - are — at the date of recruitment — **early-stage researchers** (i.e. NOT have a doctoral degree AND be in the first 4 years (full-time equivalent research experience) of their research career)

    '**Date of recruitment**' means the first day of the employment of the researcher for the purposes of the action (i.e. the starting date indicated in the employment contract/equivalent direct contract; *see Article 32)*. The Agency may however exceptionally accept a different date, if it is linked to the recruitment and justified *(e.g. by differences in the employment procedure in the country of recruitment)*.

    Example: *The date of the formal letter offering the position under the action or the date of the signature of the employment contract can also be accepted by the Agency as recruitment date.*

    Years of '**research career**' are counted from the date on which the researcher obtained a degree entitling him/her to embark on a doctoral programme (either in the country in which it was obtained or in which s/he is recruited) — even if the doctorate was never started or envisaged.

  - are recruited under an **employment contract/equivalent direct contract** (i.e. other contract with equivalent benefits and social security coverage), including:

    – sickness, parental, unemployment and invalidity benefits

- pension rights and
- benefits for accidents at work and occupational diseases.

If national law prevents them from recruiting researchers under an employment contract/equivalent direct contract, beneficiaries may — exceptionally and subject to the Agency's prior agreement — offer a **fixed-amount fellowship** with minimum social security coverage, including:

- sickness, parental and invalidity benefits and
- benefits for accidents at work and occupational diseases.

In this case, the living allowance will be reduced by 50%.

The social security coverage must be guaranteed for the entire recruitment of the researcher (i.e. also during secondments, if any).

Staff provided by a temporary work agency — Beneficiaries must always recruit researchers directly. Recruitments via other means *(e.g. temporary work agency)* are NOT allowed.

- as a rule, be employed **full-time**

  Part-time employment can be accepted:

  - subject to prior approval by the Agency
  - on personal or family grounds only (i.e. not for professional reasons).

  In the case of part-time employment, costs are reported as a pro-rata of the full-time unit cost.

  Example: *For one month of 50% part-time employment, 0.5 units should be reported.*

  ⚠ While it is not possible to request *part-time* employment for **professional reasons**, beneficiaries may — in exceptional cases — request an *interruption* of the employment. If the Agency agrees (beforehand and in writing), there is no need for an amendment or GA suspension; it is sufficient NOT to declare the months not worked.

- **work exclusively** on the research training activities

  Work outside the action is not allowed. Complementary skills training *(e.g. teaching activity as part of the research training)* is possible, but must NOT jeopardise the research training activities (and must be set out in Annex 1 of the GA).

- are supported for **at least 3 months**

  Person-months linked to shorter contracts will not be eligible.

  However, this requirement is linked to the *duration of the contract* and not to the actual duration of the training. If the contract is set out for a longer duration, but the training is interrupted within the first three months for reasons not linked to the beneficiary *(e.g. because the researcher resigns)*, the costs may still be claimed.

- comply — at the date of recruitment — with the **mobility rule**, i.e. not have resided or carried out their main activity *(work, studies, etc.)* in the country of the recruiting beneficiary for more than 12 months in the 3 years immediately before the recruitment date (— unless the beneficiary is an 'international European interest

organisation'[77] or international organisation, for whom the mobility rule is limited to time spent *with* them)

The mobility rule applies only to the **first recruitment** under the action. For instance, it does not apply to beneficiaries or partner organisations to which the researcher is sent or seconded afterwards.

Short stays (such as holidays), compulsory national services (such as mandatory military service) and procedures for obtaining refugee status under the Geneva Convention[78] are NOT counted.

- for the doctoral programmes (EJD and EID): are enrolled in a **doctoral programme**

  In the case of EJD, the PhD-programme must lead to the award of:

  - a joint degree (i.e. a single diploma issued by at least two higher education institutions offering an integrated programme and recognised officially in the countries in which the degree-awarding institutions are located) or
  - a double or multiple degree (i.e. two or more separate national diplomas issued by two or more higher education institutions and recognised officially in the countries in which the degree-awarding institutions are located).

  The degree must not necessarily be awarded within the action duration.

  However, if requested by the Agency, the beneficiary must be able to provide proof that the researcher actually received (or failed the examination for) the doctoral degree.

- have been **fully incurred for** the benefit of the **researchers** (i.e. fully paid to the individuals for whom they are claimed)

The beneficiary's costs (gross amount) for researcher remuneration, mobility and family allowances must be at least as high as the living, mobility and family allowances set out in Annex 2. Lower costs are considered as underpayment.

Social security contributions and taxation (under national law) are to be counted as part of the beneficiary's costs for the recruited researchers (gross amount).

MSCA-ITN researchers may NOT be requested to pay tuition fees for their research training and/or PhD degree programme (neither from their own funds, nor from the researcher unit cost). The costs that are usually covered by such tuition fees *(e.g. student registration, access to student services (library, computing, etc.), teaching, supervision, examination and graduation)* can be reimbursed under category B 'institutional costs'.

The mobility and family allowances are due to the researchers for each month worked.

Mobility and family allowances can be paid to the researcher in various ways, *for example as*:

- *part of his/her salary*
- *flight tickets for private travels, directly purchased or reimbursed by the beneficiary (work-related travels must be paid under category B.1 'research, training and networking costs')*
- *rental costs, directly paid or reimbursed by the beneficiary.*

[77] For the definition, *see Article 2.1(12) of the Rules for Participation Regulation No 1290/2013:* '**international European interest organisation**' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe.

[78] 1951 Refugee Convention and the 1967 Protocol.

Any form is acceptable, provided that:

- both sides agree
- it is allowed under national law

AND

- there is no underpayment.

Example: *Researcher X decides to rent an apartment of 750 EUR/month. If the beneficiary is willing to sign the rental agreement on behalf of the researcher and the researcher agrees with this form of payment, the beneficiary will use 750 EUR of the total amount of 1100 EUR (mobility & family allowance) to pay the rent. The remaining 350 EUR must be paid as part of the salary (or in another acceptable form).*

Example: *Researcher Y intends to travel to his/her home country for the summer holidays. S/he requests the beneficiary to directly purchase the tickets for him/her, and the beneficiary agrees to do so. The tickets cost 450 EUR and the beneficiary pays the remaining 150 EUR of the mobility allowance as part of the salary (or in another acceptable form).*

⚠ Usually, payment as part of the salary is the **simplest** way to pay these allowances.

Amounts to be paid in **other currencies** must be converted into euro as follows:

- if a daily rate is published in the C series of the *Official Journal of the European Union* for the currency in question: amounts must be converted into euro at the average of the daily exchange rates published over the corresponding reporting period, as reported on the ECB website[79]
- if no daily rate is published: amounts must be converted at the average of the monthly accounting rates over the reporting period, using the currency converter on the Commission's website[80].

For ease of implementation, monthly allowances for the recruited researchers can be calculated using a **conservative exchange rate**, if a corrective payment is then made (to the researchers) immediately after the end of the reporting period. This must be clearly explained in the employment contract/equivalent direct contract or fixed-amount-fellowship agreement.

Example: *Researcher X is recruited in a country outside the euro-zone. The average exchange rate is normally EUR 0.9 but this fluctuates from time to time. In order to ensure that the researcher receives a regular monthly income and to avoid exchange rate losses, the beneficiary chooses to apply a conservative exchange rate of EUR 0.87 and to make a payment to correct any underpayment at the end of the reporting period. The researcher is fully informed of this procedure at the time of recruitment.*

The Agency will check if the allowances are used fully for the benefit of the researchers. Any underpayments, if not corrected, may lead to a rejection of costs (for that researcher).

- for the family allowance: be incurred for researchers who have — at the date of the recruitment — a family, i.e.:
  - persons linked to them by:
    - marriage or
    - a relationship with equivalent status to marriage (under the law of the country or region in which this relationship was formalised)

  or

  - dependent children who are actually being maintained by the researcher.

[79] Available at http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html
[80] Available at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

1.4 The **costs** are **calculated** (automatically by the IT system) as follows:

- for the living allowance:

  amount per unit *(see Annex 2)* **x** number of months actually spent by the researchers on the research training activities ('number of implemented person-months')

- for the mobility allowance:

  amount per unit *(see Annex 2)* **x** number of implemented person-months

- for the family allowance:

  amount per unit *(see Annex 2)* **x** number of implemented person-months

⚠ Beneficiaries may declare a **maximum** of **36 person-months** per researcher. Person-months exceeding this number will be rejected by the Agency.

⚠ For EID: at least 50 % of the number of person-months declared for each researcher must have been spent in the non-academic sector.

This time does not have to be consecutive and may be split in time and between different beneficiaries/partner organisations/entities with a capital or legal link. The 50% must be reached by the end of the action (not before, *e.g. by the end of a specific reporting period*).

If the researcher unexpectedly leaves the action earlier (for reasons not linked to the beneficiary, *e.g. because s/he resigns*), the Agency may decide to nevertheless accept the costs — despite the 50% rule.

For **partial months** of recruitment, a pro-rata unit cost of 1/30 will be reimbursed for each day (for ease of implementation, each month is considered to have 30 days).

Example: *If the researcher spent 20 months and 15 days on the action, the calculation for the 15 days is: 15/30 = 0.5. In this case, insert 20.5 as number of person-months.*

Periods in which a researcher was **absent** for more than 30 days (for reasons other than normal annual leave) can NOT be charged to the action (and must be removed from the financial statement, by changing the researcher declaration).

B. Institutional costs (B.1 Research, training and networking costs and B.2 Management and indirect costs) are eligible if the costs for the recruited researchers (living allowance, mobility allowance, family allowance; see above) are eligible.

1. Institutional costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers**:

- research, training and networking costs (B.1) — for:
  - costs for training and networking activities that contribute directly to the researchers' career development *(e.g. participation in conferences, trips related to work on the action, training, language courses, seminars, lab material, books, library records, publication costs)*
  - costs for research expenses
  - additional costs arising from secondments *(e.g. travel and accommodation costs)*
- management and indirect[81] costs (B.2) — for the beneficiary's additional costs in connection with the action.

Project management — Coordination and administration tasks are considered **action tasks**.

Budget flexibility — There is some flexibility as regards the *use* of the amounts received:

- Redistributions of institutional unit costs within the consortium are allowed, but should be done via an internal agreement.
- Institutional unit costs should also be shared with entities with a capital or legal link which incurred costs for research training activities AND with partner organisations which incurred costs for hosting secondments *(see Article 8)*.
- Research, training and networking unit costs should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes *(e.g. to increase the salary of a researcher or to organise additional training activities)*.
- Unit costs for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to increase the salary of a researcher)*.

1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8194[82] and set out in Annex 2 and 2a of the GA.

This is currently:

- for research, training and networking costs: **EUR 1800** per researcher per month (person-month)

[81] For the definition, *see Article 6.2 of the H2020 General MGA*: '**indirect costs**' are costs that are not directly linked to the action implementation and therefore cannot be attributed directly to it.

[82] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf.

– for management and indirect costs: **EUR 1200** per person-month (for beneficiaries that already receive an EU/Euratom operating grant[83] in the same period: only management costs, i.e. EUR 600 — unless they can demonstrate that the operating grant does not cover any costs of the action; *see Article 6.2.E H2020 General MGA*).

In practice, the declaration of institutional costs for MSCA grants is completely automatized because the IT system automatically calculates them on the basis of the number of person-months declared under budget category A 'costs for recruited researchers'.

1.3 The **eligibility** of the institutional costs is directly linked to (and conditional on) the eligibility of the costs for the recruited researchers.

Institutional costs (research, training and networking costs, management and indirect costs) are eligible only if ALL the eligibility conditions for the recruited researchers are met. Person-months which are not eligible for budget category A 'costs for recruited researchers' are also not eligible for budget category B 'institutional costs'.

Institutional costs can NOT be claimed separately *(e.g. management and indirect costs cannot be claimed without living allowance, etc.)*.

1.4 The **costs** are **calculated** (automatically by the IT system) like the costs for recruited researchers:

– for the research, training and networking costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the researcher unit cost)

– for the management and indirect costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the researcher unit cost)

⚠ **Budget flexibility** — Even if the consortium redistributes parts of the institutional unit costs, the reporting is always based on the implemented person-months.

6.3 Ineligible costs

'**Ineligible costs**' are:

(a) costs that do not comply with the conditions set out above (in Article 6.1), and in particular costs incurred during suspension of the action implementation (see Article 49);

(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 work programme:*** *[insert name of excluded cost category]****]***.

6.4 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

[83] For the definition, *see Article 121(1)(b) of the 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 EU policy.

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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:

- call upon **entities with a capital or legal link** to the beneficiaries[7], to implement certain action tasks described in Annex 1 (i.e. hosting and training of researchers);
- call upon **partner organisations** to implement certain action tasks described in Annex 1 (i.e. hosting and training researchers during secondments).

In this case, the beneficiaries retain sole responsibility towards the Agency for implementing the action.

[7] '**Entities with a capital or legal link**' are entities 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.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For MSCA actions, the rules of the General MGA on third party involvement do not apply.

Instead, MSCA-ITN allows the beneficiaries to use:

– entities with a capital or legal link to them

and

– partner organisations

to carry out work under the action ('**third parties involved in the action**').

Beneficiaries using third parties remain **fully responsible** for them under the GA.

Best practice: In order to be able to fulfil this obligation, beneficiaries should make internal arrangements *(e.g. conclude partnership agreements with partner organisations)*.

Third parties involved in the action do not sign the GA *(see Article 1 H2020 General MGA)*.

Their costs are considered already covered by the unit cost paid to the beneficiaries; no additional costs will be reimbursed by the Agency. (Beneficiaries are however encouraged to share the unit costs received with them).

'**Entities with a capital or legal link**' are similar to **linked third parties** under Article 14 of the H2020 General MGA (i.e. entities with a link to a beneficiary, which is neither limited to the action nor established for the sole purpose of its implementation).

Examples (entities with a capital or legal link):

1. *A university is beneficiary of an MSCA-ITN grant (i.e. recruits the researchers), but part of the research training under the action takes place at its university hospital (which is part of the same structure, but a separate legal entity).*

2. A large multi-national company (which uses a foundation or a subsidiary for all its HR management, including concluding the employment contracts and paying the staff) participates in an MSCA-ITN action as entity with a capital or legal link implementing the research training activities, while the foundation or subsidiary participates as beneficiary (because it can recruit the researchers).

3. A university hospital (which is part of the public health system without legal personality on its own and which uses a foundation for its HR management) participates in an MSCA-ITN action as entity with a capital or legal link implementing research training activities, while the foundation participates as beneficiary (because it can recruit the researchers).

Entities with a capital or legal link may be used for hosting and training of researchers — and can even implement ALL those activities under the action. But they can NOT recruit the researchers (only beneficiaries can recruit the researchers) and can NOT host secondments (only partner organisations can host secondments).

Their involvement must be clearly described in Annex 1 (in particular, name of the entity, type of the link with the beneficiary, tasks to be carried out and time spent with them).

Contrary to linked third parties under Article 14 of the H2020 General MGA, however, entities with a capital or legal link can NOT claim costs separately (since their costs are covered by the unit costs paid to the beneficiaries).

Entities with a capital or legal link must fulfil the same conditions for participation and funding under H2020 as beneficiaries (for instance, be established in an EU Member State, H2020 associated country or third country listed in General Annex A to the Main Work Programme).

For more information on conditions for participation and funding, *see the Main Work Programme — MSCA.*

'**Partner organisations**' are third parties involved in the action without a (capital or legal) link to the beneficiary.

They may be used to provide training and host researchers during **secondments**.

Secondments — For MSCA-ITN, secondments are (optional) additional periods of research training with another beneficiary or a partner organisation (from any country) in order to further enrich the training experience of the researchers.

They are limited to a **maximum of 30%** of the time that is declared for research training activities (i.e. the person-months for the researcher) — except in EID or EJD.

If the researcher unexpectedly leaves the action earlier (for reasons not linked to the beneficiary; *e.g. because s/he resigns*), the Agency may decide to nevertheless accept the costs — despite the 30% rule.

The beneficiaries remain **fully responsible** for the action implementation (in accordance with the GA) also during a secondment.

Partner organisations can NOT recruit the researchers (only beneficiaries can recruit the researchers).

Their involvement must be clearly described in Annex 1 (in particular, tasks to be carried out and time spent with them).

They cannot claim costs separately (since their costs are covered by the unit costs paid to the beneficiaries).

Partner organisations can be established anywhere (EU Member State, H2020 associated country or non-associated third country).

Specific cases (third parties involved in the action):

Authorisation to administer — Coordinators that are secondary or higher education establishments and public bodies may exceptionally delegate the administration of the payments to another legal entity (third party), in most cases a foundation.

The third party must fulfil the following conditions:

- it must have been granted an 'authorisation to administer' by the coordinator

AND

- it must be affiliated, controlled or set up by the coordinator in order to handle its administrative affairs, including receiving and administering EU funds.

> ⚠ **Project management** — Coordination and administration tasks are considered **action tasks**.
>
> ⚠ Coordinators using a third party with authorisation to administer remain **fully responsible** for it under the GA.

In this case, the bank account number to be provided under Article 21.8 must be that of the entity with the authorisation to administer and the payments will be transferred directly to it. The entity must therefore be registered in the Beneficiary Register and validated by the Commission/Agency. It will get its own PIC — although it is not a beneficiary.

Since MSCA-ITN uses unit costs, no additional costs arise for the action. The costs of the entity are covered by the unit costs paid to the coordinator *(see Article 6)*.

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

[…]

18.1.2 Records and other documentation to support the costs declared

The beneficiaries must keep adequate **records and other supporting documentation** to prove the number of units declared and that the costs for recruited researchers (living allowance, mobility allowance, family allowance) have been fully incurred for the benefit of the researchers.

[…]

1. Records and other supporting documentation

For MSCA-ITN, simplified rules on record-keeping apply: Beneficiaries only need to keep appropriate and sufficient evidence to prove that the person-months declared are correct, i.e.:

- the employment contracts (or other suitable documents, *e.g. fixed-fellowship agreements*)
- proof that:
  - the eligibility conditions for the researchers were complied with *(e.g. CV showing the researcher's seniority, copies of diplomas, documents relating to recruitment procedure)*
  - the researchers actually worked on the action *(e.g. lab books, scientific articles, library records)*
  - the obligations set out in *Article 32* were complied with
  - the living, mobility and family allowances (including the employer's compulsory social security payments) were fully paid to the researchers.

This evidence must be verifiable, auditable and available.

It must be correctly archived — for at least 5 years after the balance is paid (three years for grants up to EUR 60 000) or longer if there are ongoing procedures *(such as audits, investigations or litigation)*. In this case the evidence must be kept until they end.

⚠ Costs that are not supported by appropriate and sufficient evidence may be **rejected** (and other measures described in Chapter 6 may be applied as well).

Beneficiaries that throw supporting documents away during the retention period bear the **full risk** of rejection by the Agency.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must:

- submit a '**progress report**' within 30 days after one year from the starting date of the action;
- organise a '**mid-term meeting**' between the beneficiaries, entities with a capital or legal link, partner organisations and the Agency before the deadline for the submission of the report for RP 1 (reporting period 1);
- establish a **supervisory board** of the network;
- submit any **other deliverables** identified in Annex 1, in accordance with the timing and conditions set out in it.

The beneficiaries must:

- submit a '**researcher declaration**' within 20 days after the recruitment of each researcher.

19.2 Consequences of non-compliance

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

1. Deliverable: Progress report

What & When? The coordinator must — within 30 days after the first year of the action — send to the Agency a progress report, to inform it about progress on the action.

How? The report must be uploaded directly in the Participant Portal.

2. Deliverable: Mid-term meeting

What & When? The coordinator must — before the deadline for the periodic report for RP 1 — organise a mid-term meeting.

Best practice: It is good practice to send the Agency a draft version of the periodic report (in good time before the meeting).

3. Deliverable: Researcher declaration

What & When? The beneficiary must submit to the Agency a researcher declaration for each recruited researcher — within **20 days** after the recruitment date.

It is important to give correct and complete information in the researcher declaration since the data will be automatically inserted in Annex 4 (financial statement), for calculating the living, mobility and family allowance units. If the researcher declaration is not provided, it will NOT be possible to declare person-months for that researcher.

How? The researcher declarations must be prepared and submitted directly in the Participant Portal.

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

[…]

25.5 Access rights for researchers

The beneficiaries must — on a royalty-free basis — give access to the recruited researchers to background necessary for their research training activities under the action.

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

[…]

31.6 Access rights for researchers

The beneficiaries must — on a royalty-free basis — give access to the recruited researchers to results necessary for their research training activities under the action.

[…]

1. Access rights for researchers

In view of the key role of the recruited researchers in MSCA-ITN, the MSCA-ITN MGA foresees special access rights for them (in addition to those of the General MGA; *see Articles 25 and 31 H2020 General MGA*):

The beneficiaries must give the recruited researchers **access** to both **background** AND **results** necessary for their research training activities.

> 'Background' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
>
> – is held by beneficiaries before they accede to the GA
>
> – is needed to implement the action or exploit the results
>
> AND that
>
> – has been identified by the beneficiaries in accordance with Article 24.
>
> 'Results' means any (tangible or intangible) output of the action, such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action as well as any rights attached to it, including intellectual property rights.

Beneficiaries must moreover ensure that **partner organisations** and **entities with a capital or legal link** give similar access.

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RECRUITED RESEARCHERS

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RECRUITED RESEARCHERS

32.1 Obligations towards recruited researchers

The beneficiaries must respect the following **recruitment and working conditions** for the researchers recruited under the action:

(a) take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers[16] and ensure that the researchers are aware of them;

(b) advertise and publish vacancies internationally, including on the web-sites requested by the Agency;

(c) recruit the researchers, following an open, transparent, impartial and equitable recruitment procedure, on the basis of:

(i) their scientific skills and the relevance of their research experience;

(ii) the impact of the proposed training on the researcher's career;

(iii) a fair gender representation (by promoting genuine equal access opportunities between men and women throughout the recruitment process);

(d) ensure that no conflict of interest exists in or arises from the recruitment;

(e) ensure that the researchers enjoy at the place of the implementation at least the same standards and working conditions as those applicable to local researchers holding a similar position;

(f) ensure that the **employment contract**, other direct contract or fixed-amount-fellowship agreement (see Article 6) specifies:

(i) the starting date and duration of the research training activities under the action;

(ii) the monthly support for the researcher under this Agreement (in euro and, if relevant, in the currency in which the remuneration is paid);

(iii) the obligation of the researcher to work exclusively for the action;

(iv) the obligation of the researcher not to receive for activities carried out in the frame of the action, other incomes than those received from the beneficiary (or other entity mentioned in Annex 1);

(v) the obligation of the researcher to inform the beneficiary as soon as possible of any events or circumstances likely to affect the Agreement (see *Article 17*);

(vi) the arrangements related to the intellectual property rights between the beneficiary and the researcher — during implementation of the action and afterwards;

(vii) the obligation of the researcher to maintain confidentiality (see Article 36);

(viii) the obligation of the researcher to ensure the visibility of EU funding in communications or publications and in applications for the protection of results (see Articles 27, 28, 29 and 38);

(g) assist the researchers in the administrative procedures related to their recruitment;

(h) inform the researchers about:

- the description, conditions, location and the timetable for the implementation of the research training activities under the action and the name of the supervisor;
- the rights and obligations of the beneficiary toward the researcher under this Agreement;
- the obligation of the researcher to complete and submit — at the end of the training — the evaluation questionnaire and — two years later — follow-up questionnaire provided by the Agency;

(i) ensure that the researchers do not receive, for activities carried out in the frame of the action, other incomes than those received from the beneficiaries (or other entity mentioned in Annex 1);

(j) host the researchers at their premises (or at the premises of an entity with a capital or legal link);

(k) provide training and the necessary means for implementing the action (or ensure that such training and means are provided by entities with a capital or legal link);

(l) ensure that the researchers are adequately supervised;

(m) ensure that a career development plan is established and support its implementation;

(n) ensure an appropriate exposure to the non-academic sector;

(o) limit secondments to a maximum of 30% of the actual months spent implementing the research training activities under the action.

[…]

[16] Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p.67).

1. Recruitment and working conditions — Rights for the researchers

In view of the key role of the recruited researchers in MSCA-ITN, the MSCA-ITN MGA foresees a series of obligations in order to guarantee objective recruitment procedures and best possible working conditions.

Main obligations (towards the researcher):

- Advertise and **publish vacancies** internationally

  Beneficiaries must publish vacancies as widely as possible, including on the EURAXESS Jobs Portal[84]. They may also use their networks to ensure the widest possible dissemination of vacancies and information about the application process.

- Follow an open, transparent, impartial and equitable **recruitment procedure** (i.e. merit based, taking into account potential for their professional development and promoting equal access for women and men)

- Ensure that **no conflict of interest** exists in or arises from the recruitment (i.e. take or refrain from action, as appropriate, where the impartial and objective performance of recruitment duties is compromised for reasons involving:
  - family
  - emotional life
  - political or national affinity
  - economic interest or
  - any other shared interest)

- Ensure that the researchers enjoy at the place of the implementation at least the **same standards** and **working conditions** as those applicable to local researchers holding a similar position

- **Host** the researchers at their premises (or those of an entity with a capital or legal link) and **provide training** as well as the necessary means for implementing the action (or ensure that this is provided by the entity with a capital or legal link).

[84] Available at http://ec.europa.eu/euraxess/

If the Agency finds that a beneficiary is not supporting the research training activities in line with Annex 1 of the GA, it may reduce the grant.

- Ensure that the researchers are adequately **supervised**
- Ensure that a **career development plan** is established and support its implementation
- Ensure an appropriate **exposure to** the **non-academic sector**
- Ensure that **secondments** are **limited** to a **maximum** of **30 %** of the months declared for research training activities (i.e. the person-months for the researcher) — except in EID or EJD).

> ⚠ **Secondments** — For MSCA-ITN, secondments are (optional) additional periods of research training with another beneficiary or a partner organisation (from any country), in order to further enrich the training experience of the researchers *(see Article 8)*.

If the researcher unexpectedly leaves the action earlier (for reasons not linked to the beneficiary; *e.g. because s/he resigns*), the Agency may decide to nevertheless accept the costs — despite the 30% rule.

- Ensure that the researchers do NOT receive (for activities carried out in the frame of the action) **other incomes** than those received from the beneficiaries (or any other entity referred to in Annex 1)
- Comply with the arrangements on **intellectual property rights**

  Assistance with intellectual property rights can be obtained via the IPR Helpdesk[85].
- **Assist** the researchers in the **administrative procedures** related to their recruitment *(e.g. helping with visa procedures or preparing the career development plan)*

  Assistance with relocating researchers can be obtained via *EURAXESS Services*[86].
- **Inform** the researchers about key elements of the grant

  Thus, beneficiaries must provide researchers with information on:

  - basic facts about the Marie Skłodowska-Curie actions, to make the researcher aware that s/he is a **MSCA fellow**, including:
    - the researcher's rights and obligations and
    - where to look for details (MSCA website, Participant Portal, Marie Curie Alumni Association (MCAA), etc.)
  - the specific action in question *(e.g. planned secondments, events, etc.)* and
  - whom they have appointed to supervise them for the duration of the research training activities (including during secondments with other beneficiaries and/or partner organisations).

  Moreover, the employment contract/equivalent direct contract (or fixed-amount-fellowship agreement) contract must clearly state:

  - the starting date of research training activities under the action and its duration
  - the allowances that the researcher is entitled to receive (and if this is paid in a currency other than the euro, the exchange rate; *for the exchange rate, see Article 6.2 H2020 General MGA*).

    The employment contract can state the total/annual salary — as long as it is possible to determine the monthly salary *(e.g. by dividing the annual salary by 12)*.

[85] Available at https://www.iprhelpdesk.eu/.
[86] Available at http://ec.europa.eu/euraxess/.

2. Employment contract — Obligations on the researchers

The MSCA-ITN GA foresees that there must be an employment contract/equivalent direct contract (or fixed-amount-fellowship agreement), in order to formalise the commitments in the GA also towards the researchers.

Main obligations (of the researchers):

- **Work exclusively** on the research training activities under the action

  This also means that a researcher can NOT hold two MSCA grants at the same time or engage in another professional activity or employment. Complementary skills training *(e.g. teaching activity as part of the research training)* is possible, but must NOT jeopardise the research activities (and must be set out in Annex 1 of the GA).

- **Not** receive (for activities carried out in the frame of the action) **other incomes** than those received from their beneficiary (or any other entity referred to in Annex 1)

  Example: *If the researcher's allowances fall short of the legal minimum salary in the country in question, the beneficiary (or other entity in Annex 1) may pay a top-up to make up the difference.*

- **Inform** their beneficiary as soon as possible of any events or circumstances likely to affect the GA *(such as, significant changes to their career development plan or personal circumstances affecting the foreseen activities)*

- Comply with the arrangements related to the **intellectual property rights**

- Maintain **confidentiality**

- Ensure the **visibility of EU funding**

  Researchers must acknowledge funding under the MSCA grant in publications, communications or patent applications.

- Complete and submit — at the end of the training — the evaluation questionnaire and — two years later — the follow-up questionnaire provided by the Agency.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Communication activities by beneficiaries

38.1.1 Obligation to promote the action and its results

The beneficiaries must **promote the action** and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a **mainstream media coverage** the beneficiaries must inform the Agency (see Article 52).

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

Unless the Agency requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the EU emblem and

(b) include the following text:

For communication activities: "This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

For infrastructure, equipment and major results: "This *[infrastructure][equipment][insert type of result]* is part of a project that has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

When displayed together 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.

[…]

1. Communication activities (beneficiaries) — Promoting the action — Mainstream media coverage

For MSCA, the rules for promoting the action are in principle the same as in the General MGA *(see Article 38.1.1 H2020 General MGA)*.

However, beneficiaries must inform the Agency not only before a communication activity expected to have a *major* media impact, but before any activity expected to have **mainstream media coverage** (i.e. coverage in any forms of media, *e.g. print, TV, radio and electronic,* addressing a non-specialist, non-scientific audience, *e.g. local, regional or national news*). This allows the Agency to ensure maximum publicity and to disseminate the coverage further — through social media, news updates, etc.

2. Visibility of EU funding

For MSCA, the same rules on visibility of EU funding apply as in the General MGA *(see Articles 27.3, 28.2, 29.4 and 38.1.2 H2020 General MGA)*.

In addition, the beneficiaries must make specific reference to the MSCA grant. Thus, the clause acknowledging EU funding is slightly adapted.

III.3 H2020 MGA MSCA-IF: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. Action: MSCA-IF

What? MSCA-IF funds:

- the recruitment of an experienced researcher for research training activities ('fellowship').

MSCA-IF take the form of European Fellowships (EF) and Global Fellowships (GF). European Fellowships include three additional funding strands: the 'Career Restart Panel', the 'Reintegration Panel' and the 'Society & Enterprise Panel'.

MSCA-IF are mono-beneficiary actions.

They are funded under Part I of Horizon 2020, 'Marie Skłodowska-Curie actions' *(e.g. H2020-MSCA-IF-2014)*.

For more information on MSCA-IF, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the Main Work Programme — MSCA and the call and topics pages of the call.*

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The duration of the action will be [**insert number**] **months** as of *[**OPTION 1 by default:** the first day of the month following the date the Agreement enters into force (see Article 58)] [**OPTION 2 if needed for the action:** the effective starting date notified by the beneficiary, which must be within [insert number] months from the date the Agreement enters into force] [**OPTION 3 if needed for the action:** [insert date]]*[4] ('**starting date of the action**').

[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.

1. Action starting date

For MSCA-IF, the rules on the action starting date are in principle the same as in the General MGA *(see Article 3 H2020 General MGA)*.

However, the MSCA-IF MGA provides for an additional option, where the actual starting date must be *notified* by the beneficiary (i.e. is not set by the Agency, but depends on the beneficiary).

In this case, there will be a **maximum deadline for notification** set out in Article 3 for both starting the action and notifying this to the Agency (normally 12 months from the entry into force of the GA).

The notification must be done directly in the Participant Portal.

Late notification will delay the pre-financing payment *(see Article 21.2 H2020 General MGA)*.

If the action does not start or the starting date is not notified in time, the Agency may terminate the GA *(see Article 50 H2020 General MGA)*.

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 for the beneficiary, by **budget category** (see Articles 5, 6).

4.2 Budget transfers

Not applicable

1. Budget categories

The MSCA-IF MGA does not use the budget categories of the General MGA.

Budget categories of the MSCA-IF MGA:

- costs for the recruited researcher
- institutional costs.

The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

2. Budget transfers

Given that MSCA-IF is a mono-beneficiary action, there is NO redistribution of person-months between *beneficiaries*.

Transfers between *budget categories* are formally NOT possible, because all budget categories are linked to the *same* person-months declared for the recruited researcher (and it is therefore technically not possible to move budgeted amounts from one budget category to another).

Budget flexibility — There is however some flexibility as regards the *use* of the amounts received:

- The institutional unit cost should be shared with entities with a capital or legal link which incurred costs for research training activities AND with partner organisations which incurred costs for hosting secondments (*including for GF outgoing phase; see Article 8*).
- The research, training and networking unit cost should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes *(e.g. to increase the salary of the researcher or to organise additional training activities)*.
- The unit cost for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to increase the salary of the researcher)*.

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

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

[…]

5.2 Form of grant, reimbursement rate and form of costs

The grant reimburses **100 %** 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 form ('**form of costs**'):

(a) for **costs for the recruited researcher** (living, mobility and family allowances): on the basis of the amount(s) per unit set out in Annex 2 ('**unit costs'**) and

(b) for **institutional costs** (research, training and networking costs and management and indirect costs): on the basis of the amount per unit set out in Annex 2 (**unit costs**).

1. Reimbursement rate

How much? For MSCA-IF, the reimbursement rate is set at **100 %** *(see the Main Work Programme — MSCA)*.

2. Cost forms

The MSCA MGAs do not use the **cost forms** of the General MGA, but the **unit costs** set out in Decision C(2013) 8194[87].

For MSCA-IF, these are unit costs for:

- costs for the recruited researcher: living allowance, mobility allowance and family allowance (if applicable)
- institutional costs: research, training and networking costs and management and indirect costs.

These are fixed amounts that must be multiplied by the number of months the recruited researchers spent on research training activities (person-months); they cannot be changed.

The eligibility conditions are set out in *Article 6*.

[87] Commission Decision C(2013) 8194 authorising the use of reimbursement on the basis of unit costs for Marie Skłodowska-Curie actions under the Horizon 2020 Framework Programme. Available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

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 (see Article 21.4) — 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 substantial errors, irregularities or fraud or serious breach of 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 (unit costs; see Article 6) declared by the beneficiary and approved by the Agency (see Article 21).

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 substantial errors, irregularities or fraud or serious breach of obligations — Reduced grant amount — Calculation

If the grant is reduced (see Article 43), the Agency will calculate the reduced maximum grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) from the 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 and 2 or
- the reduced grant amount following Step 3.

[…]

1. Final grant amount

For MSCA, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since MSCA grants use only unit costs, there is NO reduction due to the no-profit rule in MSCA MGAs (Step 3 of Article 5.3 of the General MGA).

ARTICLE 6 – ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

Unit costs are eligible ('eligible costs') if:

(a) they are calculated as follows:

{amounts per unit set out in Annex 2

multiplied by

the number of actual units}.

(b) the number of actual units complies with the following:

- the units must be actually used or produced in the period set out in Article 3;
- the units must be necessary for implementing the action or produced by it, and
- the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18).

1. Eligible costs

The grant **can only reimburse eligible costs** (i.e. costs that comply with the general and specific conditions set out in this Article) ('**reimbursement of eligible costs grant**').

⚠ ONLY **eligible costs** may be entered into the estimated budget for the action *(see Article 4)* or declared in the financial statements *(see Article 20)*.

Record-keeping & burden of proof — The **burden of proof** for eligibility is on the beneficiary. It must keep sufficient supporting documents *(see Article 18)* to show that the person-months it declares are eligible.

Compliance with eligibility rules may be subject to a **check or audit** by the Commission/Agency. Any ineligible costs found will be **rejected** *(see Article 42)*.

Article 6.1 refers to general eligibility conditions, applicable per cost form (for MSCA: only unit costs; *see Article 5*).

Article 6.2 refers to specific eligibility conditions, applicable per budget category *(see Article 4)*.

2. General conditions for unit costs to be eligible

The general conditions for eligibility of unit costs are the same as in the General MGA *(see Article 6.1 H2020 General MGA)*.

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 two budget categories:

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The MSCA MGAs have their **own budget categories**, with their own **types of costs**, **eligibility conditions** and **calculation rules**.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

- types of costs covered by the budget category
- cost form under which the costs must be declared (for MSCA : unit costs)
- eligibility conditions
- how the costs must be calculated.

A. <u>Costs for the recruited researcher</u> (A.1 Living allowance, A.2 Mobility allowance and A.3 Family allowance) are eligible, if:

(a) the number of units declared:

(i) corresponds to the actual number of months spent by the recruited researcher on the research training activities and

(ii) does not exceed *[**OPTION 1 by default:** 24][**OPTION 2 for GF**: 36]* months;

(b) the recruited researcher complies with the following conditions:

(i) be recruited by the beneficiary under an **employment contract** (or other direct contract with equivalent benefits, including social security coverage) or — if not otherwise possible under national law — under a fixed-amount-fellowship agreement with minimum social security coverage, including periods of secondment to '**partner organisations**';

(ii) be employed full-time, unless the Agency has approved a part-time employment for personal or family reasons (see Article 55), and

(iii) be working exclusively for the action.

(c) the costs have been fully incurred for the benefit of the recruited researcher.

This latter condition is met if:

{{{**total remuneration costs** (salaries, social security contributions, taxes and other costs included in the remuneration under the employment contract or other direct contract) or **total fixed-amount fellowship costs** for the researcher during the action

plus

total mobility costs (household, relocation and travel expenses and, if they must be paid under national law, taxes, duties and social security contributions) for the researcher during the action}

plus

total family costs for the researcher during the action**}**

divided by

the number of actual units**}**.

is equal to or higher than the following amount:

{{amount per unit cost set out in Annex 2 as living allowance

plus

amount per unit cost set out in Annex 2 as mobility allowance}

plus

if it is due, amount per unit cost set out in Annex 2 as family allowance**}**.

1. Researcher costs (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the costs for the recruited researcher, by providing for:

- a monthly living allowance (A.1) — to cover the employment or fixed-amount fellowship with social security coverage (i.e. gross amount, including compulsory

deductions under national law, *such as employer/employee social security contributions and direct taxes*)

- a monthly mobility allowance (A.2) — to cover costs related to his/her mobility *(e.g. relating to travel and accommodation)*

  This allowance covers *private* costs of the researcher, not professional costs (which are covered by category B.1 'research, training and networking costs').

AND

- a monthly family allowance (A.3) — if the researcher has family, to reduce family-related obstacles to researcher mobility.

⚠ **Budget flexibility** — There is NO flexibility as regards the *use* of the researcher unit costs (i.e. living, mobility and family allowances). They must be fully used for the researcher; they can NOT be used to pay other types of costs *(see Article 6.2.A(c))*.

What not? Management and indirect costs of the beneficiary are not covered under this budget category; they are covered under category B 'institutional costs' (*Article 6.2.B*).

1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8194[88] and set out in Annex 2 and 2a of the GA.

This is currently:

- for the living allowance: **EUR 4 650** for the researcher per month (person-month)

  To ensure equal treatment and purchasing power parity for all researchers, the amount for the living allowance is adapted per country, by applying a **country-specific correction coefficient**.

  The coefficient for the researcher is set by the Agency during grant preparation — on the basis of the list of coefficients of the Main Work Programme — MSCA in force at the time of the call and according to the country of recruitment (i.e. the country of the beneficiary).

  For GF: there will be two different country-specific correction coefficients:

  - one for the outgoing phase: the coefficient of the country where the researcher is hosted (i.e. the country of the partner organisation)
  - one for the return phase: the coefficient of the country where the researcher returns to (i.e. the country of the beneficiary).

- for the mobility allowance: **EUR 600** per person-month

- for the family allowance: **EUR 500** per person-month.

ℹ For the latest information on the amounts and the country correction coefficients, *see the Main Work Programme — MSCA in force at the time of the call*.

In practice, the declaration of costs for MSCA grants is very simple and almost completely automatized: The beneficiary must only indicate the number of implemented person-months (for the researcher recruited under the action) and the costs are then automatically calculated by the IT system.

[88] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf.

1.3 The costs (in practice for MSCA: the person-months) must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. the declared number of person-months must be linked to the implementation of the action, be incurred during the action duration, be identifiable and verifiable, etc.; *see Article 6.1*)

  Costs NOT incurred during the action implementation *(e.g. during maternity/parental leave)* are ineligible.

- be incurred for a researcher who:

  - is — at the date of the call deadline — an **experienced researcher** (i.e. have a doctoral degree OR have at least four years (full-time equivalent research experience) of research career).

    Years of '**research career**' are counted from the date when the researcher obtained a degree entitling him/her to embark on a doctoral programme (either in the country in which it was obtained or in which s/he is recruited) — even if the doctorate was never started or envisaged.

  - is recruited under an **employment contract/equivalent direct contract** (i.e. other direct contract with equivalent benefits and social security coverage), including:

    - sickness, parental, unemployment and invalidity benefits
    - pension rights and
    - benefits for accidents at work and occupational diseases

    If national law prevents it from recruiting the researcher under an employment contract/equivalent direct contract, the beneficiary may — exceptionally and subject to the Agency's prior agreement — offer a **fixed-amount fellowship** with minimum social security coverage, including:

    - sickness, parental and invalidity benefits and
    - benefits for accidents at work and occupational diseases.

    In this case, the living allowance will be reduced by 50%.

    The social security coverage must be guaranteed for the entire action (i.e. also during optional secondments, if any, and for the GF outgoing phase).

    For GF: The third country partner organisation that hosts the beneficiary in the GF outgoing phase can (exceptionally) issue an additional employment contract to ensure equivalent coverage during the stay in the third country.

    Example: *A German university recruits the fellow for the total duration of the action (i.e. provides the main employment contract under the action) and sends him/her to a US university. Continuing the German social security during the stay in the US would be so expensive, that the beneficiary asks the US partner organisation to conclude an additional employment contract, in order to insure the researcher in the US.*

    Staff provided by a temporary work agency — The beneficiary must always recruit the researcher directly. Recruitments via other means *(e.g. temporary work agency)* are NOT allowed.

  - as a rule, be employed **full-time**

    Part-time employment can be accepted:

    - subject to prior approval by the Agency
    - on personal or family grounds only (i.e. not for professional reasons).

In the case of part-time employment, costs are reported as pro-rata of the full-time unit cost.

Example: *For one month of 50% part-time employment, 0.5 units should be claimed.*

⚠ While it is NOT possible to request *part-time* employment for **professional reasons**, beneficiaries may — in exceptional cases — request a GA suspension to *interrupt* the employment *(see Article 49.1.1.2)*.

- **work exclusively** on the research training activities

  Work outside the action is not allowed. Complementary skills training *(e.g. teaching activity as part of the research training)* is possible, but must NOT jeopardise the research activities (and must be set out in Annex 1 of the GA).

- have been **fully incurred for** the benefit of the **researcher** (i.e. fully paid to the individual for whom they are claimed)

  The beneficiary's costs (gross amount) for researcher remuneration, mobility and family allowance must be at least as high as the living, mobility and family allowances set out in Annex 2. Lower costs are considered as underpayment.

  Social security contributions and taxation (under national law) are to be counted as part of the beneficiary's costs for the recruited researcher (gross amount).

  The mobility and family allowances are due to the researchers for each month worked.

  Mobility and family allowances can be paid to the researcher in various ways, *for example as:*

  - *part of his/her salary*
  - *flight tickets for private travels, directly purchased or reimbursed by the beneficiary (work-related travels must be paid under category B.1 'research, training and networking costs')*
  - *rental costs paid or reimbursed by the beneficiary, etc.*

  Any form is acceptable, provided that:

  - both sides agree
  - it is allowed under national law

  AND

  - there is no underpayment.

  Example: *Researcher X decides to rent an apartment of 750 EUR/month. If the beneficiary is willing to sign the rental agreement on behalf of the researcher and the researcher agrees with this form of payment, the beneficiary will use 750 EUR of the total amount of 1100 EUR (mobility & family allowance) to pay the rent. The remaining 350 EUR must be paid as part of the salary (or in another acceptable form).*

  Example: *Researcher Y intends to travel to his/her home country for the summer holidays. S/he requests the beneficiary to directly purchase the tickets for him/her, and the beneficiary agrees to do so. The tickets cost 450 EUR and the beneficiary pays the remaining 150 EUR of the mobility allowance as part of the salary (or in another acceptable form).*

  ⚠ Usually, payment as part of the salary is the **simplest** way to pay these allowances.

Amounts to be paid in **other currencies** must be converted into euro as follows:

- if a daily rate is published in the C series of the *Official Journal of the European Union* for the currency in question: amounts must be converted into euro at the

average of the daily exchange rates published over the corresponding reporting period, as reported on the ECB website[89]

– if no daily rate is published: amounts must be converted at the average of the monthly accounting rates over the reporting period, using the currency converter on the Commission's website[90].

For ease of implementation, the monthly allowances for the recruited researcher can be calculated using a **conservative exchange rate**, if a corrective payment is then made (to the researcher) immediately after the end of the reporting period. This must be clearly explained in the employment contract/equivalent direct contract or fixed-amount-fellowship agreement.

Example: *Researcher X is recruited in a country outside the euro-zone. The average exchange rate is normally EUR 0.9 but this fluctuates from time to time. In order to ensure that the fellow receives a regular monthly income and to avoid exchange rate losses, the beneficiary chooses to apply a conservative exchange rate of EUR 0.87 and to make a payment to correct any underpayment at the end of the reporting period. The fellow is fully informed of this procedure at the time of recruitment.*

⚠ **Other conditions** — Although NOT formal cost eligibility conditions for MSCA-IF (because already checked by the Agency during the selection procedure), the recruited researcher must — at the date of the call deadline —:

- comply with the **mobility rule**, i.e. not have resided or carried out his/her main activity *(work, studies, etc.)* in the country of the beneficiary for more than 12 months in the 3 years immediately before to the call deadline (— unless the beneficiary is an 'international European interest organisations' or international organisations, for whom the mobility rule is limited to time spent *with* them)

  Short stays (such as holidays), compulsory national services (such as mandatory military service) and procedures for obtaining refugee status under the Geneva Convention (1951 Refugee Convention and the 1967 Protocol) are NOT counted.

  For EF Career Restart Panel, Reintegration Panel and Society & Enterprise Panel: specific mobility rule — not more than 3 years in the 5 years immediately before the call deadline

  For GF: the mobility rule is checked for the country of the partner organisation, not for the country of the beneficiary (i.e. where the outgoing phase takes place, not where the return phase takes place).
- for GF and EF Reintegration Panel: be nationals or **long-term residents** of a EU Member State or an H2020 associated country.

  'Long-term resident' means full-time research activity in a EU Member State or H2020 associated country for 5 or more consecutive years.

  Time spent in procedures for obtaining refugee status in a EU Member State or H2020 associated country will be counted.
- for EF Career Restart Panel: not have been **active** in research for at least 12 months immediately before the call deadline

  'Active in research' means being employed or holding a scholarship. Parental leaves and unpaid leaves of absence will not be counted as periods of active engagement in research, even if a formal employment relationship exists during these periods. Publication activities or mere association to a university are not taken into account either.
- for the family allowance: have a **family**, i.e.
  - persons linked to the researcher by:
    - marriage or
    - a relationship with equivalent status to marriage (under the law of the country or region in which this relationship was formalised)

  or
  - dependent children who are actually being maintained by the researcher.

The Agency will check if the allowances are used fully for the benefit of the researcher. Any underpayments, if not corrected, may lead to a rejection of costs for the researcher.

1.4 The **costs** are **calculated** (automatically by the IT system) as follows:

[89] Available at http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html
[90] Available at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

– for the living allowance:

amount per unit *(see Annex 2)* **x** number of months actually spent by the researchers on the research activities ('number of implemented person-months')

– for the mobility allowance:

amount per unit *(see Annex 2)* **x** number of implemented person-months

– for the family allowance:

amount per unit *(see Annex 2)* **x** number of implemented person-months

⚠ The beneficiary may declare a **maximum** of **24 person-months** for the researcher (or **36 months** for GF). Person-months exceeding this number will be rejected by the Agency.

For **partial months** of recruitment, a pro-rata unit cost of 1/30 will be reimbursed for each day (for ease of implementation, each month is considered to have 30 days).

Example: *If the researcher spent 20 months and 15 days on the action, the calculation for the 15 days is: 15/30 = 0.5. In this case, insert 20.5 as number of person-months.*

Periods in which a researcher was **absent** for more than 30 days (for reasons other than normal annual leave) can NOT be charged to the action (and must be removed from the financial statement, by requesting an amendment to suspend the action; *see Article 49.1.1.2*).

B. Institutional costs (B.1 Research, training and networking costs and B.2 Management and indirect costs) are eligible if the costs for the recruited researcher (living allowance, mobility allowance, family allowance; see above) are eligible.

1. Institutional costs (B.1): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers**:

- research, training and networking costs (B.1) — for:
  - costs for training and networking activities that contribute directly to the researcher's career development *(e.g. participation in conferences, trips related to the work of the action, training, language courses, seminars, lab material, books, library records, publication costs)*
  - costs for research expenses
  - additional costs arising from secondments *(e.g. travel and accommodation costs, visa-related fees and travel expenses)*
- management and indirect[91] costs (B.2) — for the beneficiary's additional costs in connection with the action.

Project management — Coordination and administration tasks are considered **action tasks**.

Budget flexibility — There is some flexibility as regards the *use* of the amounts received:

- The institutional unit costs should be shared with entities with a capital or legal link which incurred costs for research training activities AND with partner organisations which incurred costs for hosting secondments (including for GF outgoing phase; *see Article 8*).
- The research, training and networking unit cost should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes *(e.g. to increase the salary of the researcher or to organise additional training activities)*.
- The unit cost for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to increase the salary of the researcher)*.

1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8194[92] and set out in Annex 2 and 2a of the GA.

This is currently:

- for research, training and networking costs: **EUR 800** for the researcher per month (person-month)
- for management and indirect costs: **EUR 650** per person-month (for beneficiaries that already receive an EU/Euratom operating grant[93] in the same period: only

[91] For the definition, *see Article 6.2 of the H2020 General MGA*: '**indirect costs**' are costs that are not directly linked to the action implementation and therefore cannot be attributed directly to it.

[92] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

management costs, i.e. EUR 325 — unless they can demonstrate that the operating grant does not cover any costs of the action; *see Article 6.2.E H2020 General MGA*).

In practice, the declaration of institutional costs for MSCA grants is completely automatized because the IT system automatically calculates them on the basis of the number of person-months declared under budget category A 'costs for the recruited researcher'.

1.3 The **eligibility** of the institutional costs is directly linked to (and conditional on) the eligibility of the costs for the recruited researcher.

Institutional costs (research training and networking costs, management and indirect costs) are eligible only if ALL the eligibility conditions for the recruited researcher are met. Person-months which are not eligible for budget category A 'costs for the recruited researcher' are also not eligible for budget category B 'institutional costs'.

Institutional costs can NOT be claimed separately *(e.g. management and indirect costs cannot be claimed without living allowance, etc.)*.

1.4 The **costs** are **calculated** (automatically by the IT system) like the costs for the recruited researcher:

– for the research, training and networking costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the researcher cost)

– for the management and indirect costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the researcher cost)

6.3 Ineligible costs

'Ineligible costs' are:

(a) costs that do not comply with the conditions set out above (in Article 6.1), in particular costs incurred during suspension of the action implementation (see Article 49);

(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, unless it can demonstrate that the operating grant does not cover any costs of the action.

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

6.4 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

[93] For the definition, *see Article 121(1)(b) of the 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 EU policy.

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

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

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

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

- call upon entities with a capital or legal link to the beneficiary[5], to implement certain action tasks described in Annex 1 (i.e. hosting and training of the researcher);
- call upon partner organisations to implement certain action tasks described in Annex 1 (i.e. hosting and training the researcher during secondment).

In this case, the beneficiary retains sole responsibility towards the Agency for implementing the action.

[5] '**Entities with a capital or legal link**' are entities 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.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For MSCA actions, the rules of the General MGA on third party involvement do not apply.

Instead, MSCA-IF allows the beneficiary to use:

– entities with a capital or legal link to it

and

– partner organisations

to carry out work under the action ('**third parties involved in the action**').

A beneficiary using third parties remains **fully responsible** for them under the GA.

Best practice: In order to be able to fulfil this obligation, the beneficiary should make internal arrangements *(e.g. conclude partnership agreements with partner organisations)*.

Third parties involved in the action do not sign the GA *(see Article 1 H2020 General MGA)*.

Their costs are considered already covered by the unit cost paid to the beneficiary; no additional costs will be reimbursed by the Agency. (The beneficiary is however encouraged to share the unit costs received with them.)

'**Entities with a capital or legal link**' are similar to **linked third parties** under Article 14 of the H2020 General MGA (i.e. entities with a link to the beneficiary, which is neither limited to the action nor established for the sole purpose of its implementation).

Examples (entities with a capital or legal link):

1. *A university is beneficiary of an MSCA-IF grant (i.e. recruits the researcher), but part of the research training under the action takes place at its university hospital (which is part of the same structure, but a separate legal entity).*

2. A large multi-national company (which uses a foundation or a subsidiary for all its HR management, including concluding the employment contracts and paying the staff) participates in an MSCA-IF action as entity with a capital or legal link implementing research training activities, while the foundation or subsidiary participates as beneficiary (because it is can recruit the researchers).

3. A university hospital (which is part of the public health system without legal personality on its own and which uses a foundation for its HR management) participates in an MSCA-IF action as entity with a capital or legal link implementing research training activities, while the foundation participates as beneficiary (because it can recruit the researchers).

Entities with a capital or legal link may be used for hosting and research training of researchers — — and can even implement ALL those activities under the action. But they can NOT recruit the researcher (only the beneficiary can recruit the researcher) and can NOT host secondments (only partner organisations can host secondments).

Their involvement must be clearly described in Annex 1 (in particular, name of the entity, type of link with the beneficiary and tasks to be carried out).

Contrary to linked third parties under Article 14 of the H2020 General MGA, however, entities with a capital or legal link can NOT claim costs separately (since their costs are covered by the unit costs paid to the beneficiary).

Entities with a capital or legal link must fulfil the same conditions for participation and funding under H2020 as the beneficiary (for instance, be established in an EU Member State or H2020 associated country).

Example: *For the EF Society & Enterprise Panel, the entities with a capital or legal link must also be from the non-academic sector.*

For more information on conditions for participation and funding, *see the Main Work Programme — MSCA.*

'**Partner organisations**' are third parties involved in the action without a (capital or legal) link to the beneficiary.

They may be used to provide training and host researchers during **a secondment**.

Secondments — For MSCA-IF, secondments are either:

- (optional) additional periods of research training with a partner organisation (from an EU Member State or H2020 associated country), in order to further enrich the training experience of the researcher

or

- for GF: (mandatory) outgoing phase with a partner organisation (from a third country).

Optional secondments are limited to a **maximum of 3 months** (for actions with duration of up to 18 months) and **6 months** (for actions with duration of more than 18 months).

The beneficiary remains **fully responsible** for the action implementation (in accordance with the GA) also during a secondment.

Partner organisations can NOT recruit the researcher (only the beneficiary can recruit the researcher).

For GF: The third country partner organisation that hosts the beneficiary in the GF outgoing phase can (exceptionally) issue an additional employment contract to ensure equivalent social security coverage during the stay in the third country *(see Article 6)*.

Their involvement must be clearly described in Annex 1 (in particular, tasks to be carried out).

They cannot claim costs separately (since their costs are covered by the unit costs paid to the beneficiary).

Partner organisations for optional secondments must be established in an EU Member State or H2020 associated country; partner organisations for GF outgoing phase must be established in a non-associated third country.

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

[…]

18.1.2 Records and other documentation to support the costs declared

The beneficiary must keep adequate **records and other supporting documentation** to prove the number of units declared and that the costs for the recruited researcher (living allowance, mobility allowance, family allowance) have been fully incurred for the benefit of the researcher.

[…]

1. Records and other supporting documentation

For MSCA-IF, simplified rules on record-keeping apply: The beneficiary only needs to keep appropriate and sufficient evidence to prove that the person-months declared are correct, i.e.:

- the employment contract (or other suitable documents, *e.g. fixed-fellowship agreement*)
- proof that:
  - the eligibility conditions for the researcher were complied with *(e.g. CV showing the researcher's seniority, copies of diplomas, documents relating to recruitment procedure)*
  - the researcher actually worked on the action *(e.g. lab books, scientific articles, library records)*
  - the obligations set out in Article 32 were complied with
  - the living, mobility and family allowances (including the employer's compulsory social security payments) were fully paid to the researcher.

This evidence must be verifiable, auditable and available.

It must be correctly archived — for at least 5 years after the balance is paid (three years for grants up to EUR 60 000) or longer if there are ongoing procedures *(such as audits, investigations or litigation)*. In this case the evidence must be kept until they end.

⚠ Costs that are not supported by appropriate and sufficient evidence may be **rejected** (and other measures described in Chapter 6 may be applied as well).

A beneficiary that throws supporting documents away during the retention period bears the **full risk** of rejection by the Agency.

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

[…]

25.5 Access rights for the researcher

The beneficiary must — on a royalty-free basis — give access to the recruited researcher to background necessary for their research training activities under the action.

[…]

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

[…]

31.6 Access rights for the researcher

The beneficiary must — on a royalty-free basis — give, access to the recruited researcher to results necessary for the research training activities under the action.

[…]

1. Access rights for the researcher

In view of the key role of the recruited researcher in MSCA-IF, the MSCA-IF MGA foresees special access rights for him/her (in addition to those of the General MGA; *see Articles 25 and 31 H2020 General MGA)*:

The beneficiary must give the recruited researcher **access** to both **background** AND **results** necessary for his/her research training activities.

> 'Background' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
>
> – is held by the beneficiary before it accedes to the GA (i.e. before grant signature)
>
> – is needed to implement the action or exploit the results
>
> AND that
>
> – has been identified by the beneficiary in accordance with Article 24.
>
> 'Results' means any (tangible or intangible) output of the action, such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action as well as any rights attached to it, including intellectual property rights.

The beneficiary must moreover ensure that **partner organisations** and **entities with a capital or legal link** (if any) give similar access.

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR THE RECRUITED RESEARCHER

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR THE RECRUITED RESEARCHER

32.1 Obligations towards the recruited researcher

The beneficiary must respect the following **recruitment and working conditions** for the researcher recruited under the action:

(a) take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers[12] and ensure that the researcher is aware of them;

(b) ensure that the researcher enjoys at the place of the implementation at least the same standards and working conditions as those applicable to local researchers holding a similar position;

(c) ensure that the **employment contract**, other direct contract or fixed-amount-fellowship agreement (see Article 6) specifies:

(i) the name of the supervisor for the research training activities as indicated in Annex 1;

(ii) the starting date and duration of the research training activities under the action;

(iii) the monthly support for the researcher under this Agreement (in euro and, if relevant, in the currency in which the remuneration is paid);

(iv) the obligation of the researcher to work exclusively for the action;

(v) the obligation of the researcher not to receive for activities carried out in the frame of the action, other incomes than those received from the beneficiary (or other entity mentioned in Annex 1);

(vi) the obligation of the researcher to inform the beneficiary as soon as possible of any events or circumstances likely to affect the Agreement (see Article 17);

(vii) the arrangements related to the intellectual property rights between the beneficiary and the researcher — during implementation of the action and afterwards;

(viii) the obligation of the researcher to maintain confidentiality (see Article 36);

(ix) the obligation of the researcher to ensure the visibility of EU funding in communications or publications and in applications for the protection of results (see Articles 27, 28, 29 and 38);

(x) *[OPTION for GF: the obligation of the researcher to carry out a mandatory return period of 12 months at the premises of the beneficiary;]*

(d) assist the researcher in the administrative procedures related to the recruitment;

(e) inform the researcher about:

- the description, conditions, location and the timetable for the implementation of the research training activities under the action and the name of the supervisor;
- the rights and obligations of the beneficiary toward the researcher under this Agreement;
- the obligation of the researcher to complete and submit — at the end of the research training activities — the evaluation questionnaire and — two years later — follow-up questionnaire provided by the Agency;

(f) ensure that the researcher does not receive, for activities carried out in the frame of the action, other incomes than those received from the beneficiary (or other entity mentioned in Annex 1);

(g) host the researcher at its premises (or at the premises of an entity with a capital or legal link);

(h) provide training and the necessary means for implementing the action (or ensure that such training and means are provided by entities with a capital or legal link);

(i) ensure that the researcher is adequately supervised;

(j) ensure that — at the beginning of the research training activities — a career development plan is established together with the supervisor;

(k) support the secondment of the researcher to a partner organisation in a Member State or associated country as set out in Annex 1:

- for actions with a duration up to 18 months: for a maximum of three months or
- for actions with a duration of more than 18 months: for a maximum of six months;

(l) ***[OPTION for GF:*** *support the return of the researcher to its premises (or those of the entity with a capital or legal link) to carry out a mandatory return period of 12 months.****]***

[…]

[12] Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).

1. Recruitment and working conditions — Rights for the researcher

In view of the key role of the recruited researcher in MSCA-IF, the MSCA-IF MGA foresees a series of obligations in order to guarantee best possible working conditions.

Main obligations (towards the researcher):

- Ensure that the researcher enjoys at the place of the implementation at least the **same standards** and **working conditions** as those applicable to local researchers holding a similar position
- **Host** the researcher at its premises (or at those of an entity with a capital or legal link) and **provide training** as well as the necessary means for implementing the action (or to ensure that this is provided by the entity with a capital or legal link).

  If the Agency finds that the beneficiary is not supporting the research training activities in line with Annex 1 of the GA, it may reduce the grant.
- Ensure that the researcher is adequately **supervised**
- Ensure that — at the beginning of the research training activities — a **career development plan** is established and support its implementation
- **Support secondments** of the researcher (if any) and ensure that they are **limited** to a **maximum** of **3 months** (for actions of up to 18 months) or **6 months** (for actions of more than 18 months)

Secondments — For MSCA-IF, secondments can be:

- (optional) additional periods of research training with a partner organisation (from an EU Member State or H2020 associated country), in order to further enrich the training experience of the researcher

and/or

- for GF: (mandatory) outgoing phase with a partner organisation (from a third country) *(see Article 8)*

For GF: Also support the researcher's return (during the mandatory 12 months return-period)

- Ensure that the researcher does NOT receive (for activities carried out in the frame of the action) **other incomes** than those received from the beneficiary (or any other entity referred to in Annex 1)

- Comply with the arrangements on **intellectual property rights**.

  Assistance with intellectual property rights can be obtained via the IPR Helpdesk[94].

- **Assist** the researcher in the **administrative procedures** related to his/her recruitment *(e.g. helping with visa procedures or preparing the career development plan)*

  Assistance with relocating researchers can be obtained via *EURAXESS Services*[95].

- **Inform** the researcher about key elements of the grant

  Thus, the beneficiary must provide the researcher with information on:

  - basic facts about the Marie Skłodowska-Curie actions, to make the researcher aware that s/he is a **MSCA fellow**, including:
    - the researcher's rights and obligations and
    - where to look for details (MSCA website, Participant Portal, Marie Curie Alumni Association (MCAA), etc.)
  - the specific action in question *(e.g. planned secondments, events, etc.)* and
  - whom they have appointed to supervise him/her for the duration of the research training activities, including during optional secondments/GF outgoing phase with partner organisations.

  Moreover, the employment contract/equivalent direct contract (or fixed-amount-fellowship agreement) contract must clearly state:

  - the starting date of research training activities under the action and its duration

    The starting date and duration must match those in Article 3 of the GA.

  - the allowances that the researcher is entitled to receive (and if this is paid in a currency other than the euro, the exchange rate; *for the exchange rate, see Article 6).*

    The employment contract can state the total/annual salary — as long as it is possible to determine the monthly salary *(e.g. by dividing the annual salary by 12)*.

2. Employment contract — Obligations on the researcher

The MSCA-IF GA foresees that there must be an employment contract/equivalent direct contract (or fixed-amount-fellowship agreement), in order to formalise the commitments in the GA also towards the researcher.

Main obligations (of the researcher):

- **Work exclusively** on the research training activities

[94] Available at https://www.iprhelpdesk.eu/.
[95] Available at http://ec.europa.eu/euraxess/.

This also means that a researcher can NOT hold two MSCA grants at the same time, or engage in another professional activity or employment. Complementary skills training *(e.g. teaching activity as part of the research training)* is possible, but must NOT jeopardise the research activities (and must be set out in Annex 1 of the GA).

- **Not** receive (for activities carried out in the frame of the action) **other incomes** than those received from the beneficiary (or any other entity referred to in Annex 1)

  Example: *If the researcher's allowances fall short of the legal minimum salary in the country in question, the beneficiary (or other entity in Annex 1) may pay a top-up to make up the difference.*

- **Inform** the beneficiary as soon as possible of any events or circumstances likely to affect the GA *(such as, significant changes to their career development plan or personal circumstances affecting the foreseen activities)*

- Comply with the arrangements related to the **intellectual property rights**

- Maintain **confidentiality**

- Ensure the **visibility of EU funding**

  The researcher must acknowledge funding under the MSCA grant in publications, communications or patent applications.

- Complete and submit — at the end of the training — the evaluation questionnaire and — two years later — the follow-up questionnaire provided by the Agency.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Communication activities by the beneficiary

38.1.1 Obligation to promote the action and its results

The beneficiary must **promote the action** and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a **mainstream media coverage** the beneficiary must inform the Agency (see Article 52).

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

Unless the Agency requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the European Union emblem and

(b) include the following statement:

For communication activities: "This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

For infrastructure, equipment and major results: "This *[infrastructure][equipment][insert type of result]* is part of a project that has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

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

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

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

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

[…]

1. Communication activities (beneficiary) — Promoting the action — Mainstream media coverage

For MSCA, the rules for promoting the actions are in principle the same as in the General MGA *(see Article 38.1.1 H2020 General MGA)*.

However, the beneficiary must inform the Agency not only before a communication activity expected to have a *major* media impact, but before any activity expected to have **mainstream media coverage** (i.e. coverage in any forms of media, *e.g. print, TV, radio and electronic,* addressing a non-specialist, non-scientific audience, *e.g. local, regional or national news*). This allows the Agency to ensure maximum publicity and to disseminate the coverage further — through social media, news updates, etc.

2. Visibility of EU funding

For MSCA, the same rules on visibility of EU funding apply as in the General MGA *(see Articles 27.3, 28.2, 29.4 and 38.1.2 H2020 General MGA)*.

In addition, the beneficiary must make specific reference to the MSCA grant. Thus, the clause acknowledging EU funding is slightly adapted.

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

49.1 Suspension of the action implementation by the beneficiary

49.1.1 Conditions — Procedure

49.1.1.1 The beneficiary may suspend implementation of the action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 51) — make implementation impossible or excessively difficult.

In this case, the beneficiary must immediately formally notify suspension to the Agency (see Article 52), stating:

(a) the reasons why and

(b) 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 beneficiary 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 55) — unless the Agreement or the participation of a beneficiary has been terminated (see Article 50).

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).

49.1.1.2 The beneficiary may request suspension of the action implementation (or any part of it) for **professional, personal or family reasons** (including parental leave) of the recruited researcher.

For this purpose, the beneficiary must formally notify a request for **amendment** (to make the necessary changes and to set the date of resumption) in accordance with Article 55.

The suspension **will take effect** on the date set out in the amendment.

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

[…]

1. GA suspension — Additional grounds for suspension: Professional, personal or family reasons

In addition to the normal grounds for GA suspension *(see Article 49 H2020 General MGA)*, beneficiaries of MSCA-IF may request suspension for professional, personal or family grounds of the recruited researcher *(including parental leave or another professional opportunity)*.

2. Procedure

The beneficiary must submit a request for amendment, indicating:

- the starting and (planned) end date of the suspension and
- the (planned) resumption date when the action will be resumed (i.e. automatically end date +1 day).

In principle, suspensions (other than for parental leave) should **not exceed 30 %** of the action duration.

For the amendment, the rules of the General MGA apply *(see Article 55 H2020 General MGA)*.

3. Effects

Costs incurred during the suspension are NOT eligible *(see Article 6.3)*.

ARTICLE 55 — AMENDMENTS TO THE AGREEMENT

ARTICLE 55 — AMENDMENTS TO THE AGREEMENT

55.1 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.

The beneficiary may, in particular, request a **change of the time spent on the action** (part-time employment) for personal or family reasons (including parental leave).

[…]

1. Amendments — Additional grounds for amendments: Change to part-time employment

What? For MSCA-IF, the beneficiary may request an amendment to change the time the researcher spends on the action (i.e. from full-time to part-time, part-time to full-time or to a different percentage of part-time) — on personal or family grounds (including parental leave).

What not? Such amendments are NOT possible for any other reasons *(e.g. other professional opportunities, etc.)*. In those cases, the beneficiary must request a GA suspension or GA termination.

How? The amendment should be requested immediately (retroactive change is possible, if justified; *see Article 55 H2020 General MGA*).

The action duration will be automatically adapted (to extend the action in line with the part-time regime, i.e. transform the full-time-equivalent number of months into the real number of months, so that the maximum grant amount can stay the same and the costs can be declared at the pro-rata of the working time; AT23 clause) and the reporting periods will be changed (to adapt them to the new action duration; AT25 clause).

For more information on the amendment (list of AT clauses, supporting documents and information on how amendment types can be combined) *see the Guidance – Amendment types & supporting documents.*

ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY

ARTICLE 56a — TRANSFER OF THE AGREEMENT TO A NEW BENEFICIARY

56a.1 Conditions

The beneficiary may request that the research training activities are transferred to a new beneficiary, if there are serious reasons affecting its capacity to implement the action (without being entitled to any additional EU funding for doing so).

56a.2 Procedure

The beneficiary must formally notify a **request for amendment** to the Agency (see Article 55).

The request must include:

- the reasons why;
- the date the change takes effect;
- the opinion of the researcher and its supervisor;
- a proposal for the necessary changes, including — if necessary — the appointment of the new supervisor and the Accession Form for the new beneficiary (see Annex 3).

The change **will take effect** on the day set out in the amendment.

56a.3 Effects

If the request for amendment is accepted by the Agency, the Agreement will be **amended** to introduce the necessary changes in order to reallocate the tasks of the former beneficiary (see Article 55).

In this case, the former beneficiary must:

- transfer immediately the remaining contribution to the new beneficiary and
- submit — within 30 days from the change — a '**transfer report**', containing an overview of the progress of the work and the individual financial statement (see Article 20).

The maximum grant amount will be split between the former beneficiary and the new beneficiary, on the basis of the number of actual units in line with Article 6.

The former and the new beneficiary must agree on arrangements concerning the management of intellectual property rights and other issues under the Agreement.

If the Agency considers that the reasons provided do not justify the transfer, it will reject the request specifying the grounds for the rejection.

1. Transfer of the GA

MSCA-IF grants can be **transferred** to a new beneficiary.

⚠ **Transfer** — The rights and obligations under the GA are transferred from the beneficiary to a new beneficiary — without passing via termination (Article 50) or addition of a new beneficiary (Article 56).

NO transfer before the amendment has been accepted by the Agency. Transfers without a formal amendment are void and may result in GA termination. The former beneficiary remains **fully responsible** until the Agency has approved the amendment.

The transfer may be based on any **ground** that is linked to the beneficiary and affects objectives of the action (i.e. implementing the research training activities).

Examples: *Internal reorganisation affecting implementation of the action; dismantling of the research team involved in the action; departure of the supervisor from the beneficiary's premises; serious conflict between the researcher and the supervisor.*

Personal circumstances of the researcher (e.g. other professional opportunities, personal or family commitments) are NOT considered valid grounds for transferring the GA to a new beneficiary. These must be addressed by suspending the action *(see Article 49.1)* or a switch to part-time employment *(see Article 55)*.

The transfer may NOT entail changes to the GA which would call into question the decision to award the grant or breach the principle of equal treatment of applicants.

Example: *The transfer will not be accepted if the new beneficiary does not fulfil the eligibility conditions or does not have sufficient financial and operational capacity.*

2. Procedure

The former beneficiary must submit a **request for amendment** to the Agency.

For the amendment, the rules of the General MGA apply *(see Article 55 H2020 General MGA)*.

The **transfer date** will be added to the Preamble of the GA.

The date must be selected in the amendment request. The transfer date must be the same date as the accession date of the new beneficiary. Retroactive dates are allowed, but only in exceptional cases and with a specific justification *(see Article 55 H2020 General MGA)*.

The amendment request must include the Accession Form (i.e. the statement to take over all rights and obligations under the Agreement) of the new beneficiary (signed directly in the Participant Portal).

The **maximum grant amount/action duration** will be adapted to take into account the country correction coefficient of the new beneficiary.

⚠ The maximum grant amount *(see Article 5)* will **NEVER** be **increased**.

If the new beneficiary is in a country with a lower country correction coefficient, the maximum grant amount *(see Article 5.1) will be lowered*.

If the new beneficiary is in a country with a higher country correction coefficient, the action duration will normally be adapted, so that the maximum grant amount can stay the same. If (exceptionally) the action duration is not changed, the beneficiary must top-up the salary of the researcher and pay the difference between the former and the new correction coefficient *(using e.g. the management and indirect costs or own funding)*.

ℹ For more information on the amendment (list of AT clauses, supporting documents and information on how amendment types can be combined) *see the Guidance – Amendment types & supporting documents.*

3. Effects

The former beneficiary must submit — within 30 days from the transfer date — a transfer report, with information on:

- the progress and
- the financial statement (for the open period until transfer).

This report is for information purposes only. The Agency will use it to check the eligible costs and instruct the former beneficiary to **transfer** the **remaining pre-financing** to the new beneficiary. The real financial statement for the open reporting period until transfer must be also uploaded with the next periodic report (by the new beneficiary, together with its own financial statement).

III.4 H2020 MGA MSCA-RISE: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. Action: MSCA-RISE

What? MSCA-RISE funds:

- the exchange of staff members (between beneficiaries or between a beneficiary and a partner organisation) for research and innovation activities ('secondments').

> **Secondments —** For MSCA-RISE, secondments are the core activity of the action *(see Article 8)*.

MSCA-RISE are multi-beneficiary actions.

They are funded under Part I of Horizon 2020, 'Marie Skłodowska-Curie actions' *(e.g. H2020-MSCA-RISE-2014)*.

> For more information on MSCA-RISE, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*
>
> For more information on the conditions for participation and funding, *see the Online Manual or the Main Work Programme — MSCA and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 **budget category** (see Articles 5, 6).

4.2 Budget transfers

The estimated budget breakdown indicated in Annex 2 may be adjusted by transfers of amounts between the beneficiaries. This does not require an amendment according to Article 55, if the action is implemented as described in Annex 1.

1. Budget categories

The MSCA-RISE MGA does not use the budget categories of the General MGA.

Budget categories of the MSCA-RISE MGA:

- costs for seconded staff members
- institutional costs.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

2. Budget transfers

The beneficiaries may redistribute person-months between *them* (as compared with the original planning set out in Annex 2). This redistribution can be done without requesting an amendment *(see Article 55 H2020 General MGA)* — provided that it does not imply a substantial change to the action as described in Annex 1.

⚠ The maximum grant amount *(see Article 5)* can however **NEVER** be **increased**.

Best practice: The coordinator should **inform** the Agency in advance of any redistribution of person-months, in order to establish if an amendment is needed. Changes that only concern the consortium-internal arrangements on the redistribution of the unit costs for management and indirect costs do NOT need to be notified to the Agency.

Example: *Beneficiary A plans to second 24 person-months, but can finally only implement 22. At the same time, beneficiary B is able to implement 2 additional person-months compared to the original planning. In this case, the budget transfer between the beneficiaries is possible without an amendment.*

A redistribution of person-months will also have an impact on the institutional unit costs (since they are also paid according to the person-months declared for seconded staff members).

Redistributions are subject to the following:

- no impact on the action as described in Annex 1

If the transfer of person-months implies a substantial change of Annex 1, a formal amendment is required.

- the minimum and maximum secondment duration.

Transfers between *budget categories* are formally NOT possible, because all budget categories are linked to the *same* person-months declared for the seconded staff (and it is therefore technically not possible to move budgeted amounts from one budget category to another).

Budget flexibility — There is however some flexibility as regards the *use* of the amounts received:

- Redistributions of institutional unit costs within the consortium are allowed, but should be done via an internal agreement.
- Institutional unit costs should also be shared with entities with a capital or legal link and partner organisations which incurred costs for hosting secondments *(see Article 8)*.
- Research, training and networking unit costs should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes *(e.g. to cover travel and subsistence costs of a staff member, to organise additional training activities or horizontal networking events)*.
- Unit costs for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to cover travel and subsistence costs a staff member, to organise additional training activities or horizontal networking events)*.

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

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

[…]

5.2 Form of grant, reimbursement rate and form of costs

The grant reimburses **100 %** 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 ('**form of costs**'):

(a) for **costs for seconded staff members**: on the basis of the amount(s) per unit set out in Annex 2 ('**unit costs**') and

(b) for **institutional costs** (research, training and networking costs, management and indirect costs): on the basis of the amount per unit set out in Annex 2 **(unit costs)**.

1. Reimbursement rate

How much? For MSCA-RISE, the reimbursement rate is set at 100% *(see the Main Work Programme — MSCA).*

2. Cost forms

The MSCA MGAs do not use the **cost forms** of the General MGA, but the **unit costs** set out in Decision C(2013) 8194[96].

For MSCA-RISE, these are unit costs for:

- costs for seconded staff members: top-up allowance
- institutional costs: research, training and networking costs and management and indirect costs.

These are fixed amounts that must be multiplied by the number of months the staff were seconded and spent on research and innovation activities (person-months); they cannot be changed.

The eligibility conditions are set out in *Article 6*.

[96] Commission Decision C(2013) 8194 authorising the use of reimbursement on the basis of unit costs for Marie Skłodowska-Curie actions under the Horizon 2020 Framework Programme. Available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf.

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 (see Article 21.4) — in the following steps:

Step 1 — Application of the reimbursement rate

Step 2 — Limit to the maximum grant amount

Step 3 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations

5.3.1 Step 1 — Application of the reimbursement rate

The reimbursement rate (see Article 5.2) is applied to eligible costs (unit costs; see Article 6) declared by the beneficiaries and approved by the Agency (see Article 21).

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 substantial errors, irregularities or fraud or serious breach of obligations — Reduced grant amount — Calculation

If the grant is reduced (see Article 43), the Agency will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) 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 and 2 or
- the reduced grant amount following Step 3.

[…]

1. Final grant amount

For MSCA, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since MSCA grants use only unit costs, there is NO reduction due to the no-profit rule in MSCA MGAs (Step 3 of Article 5.3 of the General MGA).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

Unit costs are eligible ('eligible costs'), if:

(i) they are calculated as follows:

{amounts per unit set out in Annex 2

multiplied by

the number of actual units}.

(ii) the number of actual units complies with the following:

- the units must be actually used or produced in the period set out in Article 3;
- the units must be necessary for implementing the action or produced by it, and
- the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18).

1. Eligible costs

The grant can **only reimburse eligible costs** (i.e. costs that comply with the general and specific conditions set out in this Article) ('**reimbursement of eligible costs grant**').

⚠ ONLY **eligible costs** may be entered into the estimated budget for the action *(see Article 4)* or declared in the financial statements *(see Article 20)*.

Record-keeping & burden of proof — The **burden of proof** for eligibility is on the beneficiaries. They must keep sufficient supporting documents *(see Article 18)* to show that the person-months they declare are eligible.

Compliance with eligibility rules may be subject to a **check or audit** by the Commission/Agency. Any ineligible costs found will be **rejected** *(see Article 42)*.

Article 6.1 refers to general eligibility conditions, applicable per cost form (for MSCA: only unit costs; *see Article 5*).

Article 6.2 refers to specific eligibility conditions, applicable per budget category *(see Article 4)*.

2. General conditions for unit costs to be eligible

The general conditions for eligibility of unit costs are the same as in the General MGA *(see Article 6.1 H2020 General MGA)*.

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 two budget categories:

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The MSCA MGAs have their **own budget categories**, with their own **types of costs**, **eligibility conditions** and **calculation rules**.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

- types of costs covered by the budget category
- cost form under which the costs must be declared (for MSCA: unit costs)
- eligibility conditions
- how the costs must be calculated.

A. <u>Costs for seconded staff members</u> are eligible, if:

(a) the number of units declared:

(i) corresponds to the actual number of months spent by the seconded staff members on the research and innovation activities and

(ii) does not exceed 12 months (per seconded staff member);

(b) the seconded staff members comply — at the date of secondment — with the following conditions:

(i) be one of the following:

- an '**early stage researcher**' (i.e. in the first four years of his/her research career and not have a doctoral degree);
- an '**experienced researcher**' (i.e. in possession of a doctoral degree or have at least four years of research experience), or
- **administrative, managerial or technical staff** supporting research and innovation activities under the action, and

(ii) have been actively engaged in or linked to research and innovation activities for at least 6 months at the sending:

- beneficiary (or entity with a capital or legal link[6] to it and located in the same country), or
- partner organisation (or entity with a capital or legal link to it and located in the same country).

(c) the secondments comply with the following conditions:

(i) last at least 1 month and no longer than 12 months (per secondment);

(ii) be between different countries;

(iii) for secondments within the EU (or associated countries)[7]: be between different sectors (academic and non-academic)[8];

(iv) for secondments from EU (or associated countries): be from a beneficiary (or entity with a capital or legal link) established in a EU Member State (or associated country) to a partner organisation (or entity with a capital or legal link) established in a non-EU Member State (or non-associated country), and

(v) for secondments to EU (or associated countries): be from a partner organisation (or entity with a capital or legal link) established in a country listed in General Annex A of the Main Work Programme to a beneficiary (or entity with a capital or legal link) established in a EU Member State (or associated country).

[6] '**Entities with a capital or legal link**' are entities that have a link with the beneficiary or partner organisations, in particular, a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

[7] For the definition, see Article 2.1(3) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.12.2013 p.81): '**associated country**' means a third country which is party to an international agreement with the Union, as identified in Article 7 of the H2020 Framework Programme Regulation No 1291/2013. Article 7 sets out the conditions for association of non-EU countries to Horizon 2020.

[8] For secondments for entities with a capital link or legal link to the beneficiaries or partner organisations: only the sector (academic or non-academic) of the beneficiary counts; the entity will be considered to belong to the same sector as their beneficiary.

1. Seconded staff costs (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the costs for the seconded staff members, by providing for:

- a monthly top-up allowance (A) — for travel, accommodation and subsistence costs relating to the secondment.

> ⚠ **Budget flexibility —** There is NO flexibility as regards the *use* of the seconded staff unit costs (i.e. top-up allowance). They must be fully used for the staff member (to cover the travel, accommodation and subsistence costs of the staff member); they can NOT be used to pay other staff members or other types of costs *(see Article 32)*.
>
> ⚠ **Secondments —** For MSCA-RISE, secondments are the core activity of the action *(see Article 8)*.

What not? Research, training and networking costs and management and indirect costs of the beneficiaries are not covered under this budget category; they are covered under category B 'institutional costs' (*Article 6.2.B*).

1.2 These costs must be **declared as** the unit cost fixed by Decision C(2013) 8194[97] and set out in Annex 2 and 2a of the GA.

This is currently:

- for the top-up allowance: **EUR 2 000** per seconded staff member per month (person-month).

> ℹ For the latest information on the amount, *see the Main Work Programme — MSCA in force at the time of the call.*

In practice, the declaration of costs for MSCA grants is very simple and almost completely automatized: The beneficiaries must only indicate the number of implemented person-months (for staff members seconded under the action) and the costs are then automatically calculated by the IT system.

1.3 The costs (in practice for MSCA: the person-months) must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. the declared number of person-months must be linked to the implementation of the action, be incurred during the action duration, be identifiable and verifiable, etc.; *see Article 6.1*)
- be incurred for staff members that — at the date of secondment —:
  - are one of the following three:
    - **early stage researchers** (i.e. NOT have a doctoral degree AND be in the first four years (full-time equivalent research experience) of their research career)
    - **experienced researchers** (i.e. have a doctoral degree OR at least four years (full-time equivalent research experience) of research career), or
    - **administrative, managerial** or **technical staff supporting research and innovation activities** (i.e. actively involved in the R&D activities of the organisation and not with a purely administrative role).

[97] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

Examples (not eligible administrative, managerial or technical staff):

1. *Ms B, employed by beneficiary B as an accountant, is not eligible for secondment as her tasks are not directly related to support research and innovation activities.*

2. *Mr Y, employed by beneficiary/partner organisation Y and carrying out secretarial tasks, is not eligible for secondment because he is not directly involved in research and innovation activities.*

Years of '**research career**' are counted from the date on which the researcher obtained the degree entitling him/her to embark on a doctoral programme (either in the country in which it was obtained or in which s/he is recruited or from where s/he is seconded) — even if a doctorate was never started or envisaged.

- have already been actively **engaged** in or **linked** to research and innovation activities at the premises of the sending beneficiary/partner organisation/entity with a capital or legal link, continuously for at least **6 months** (full-time equivalent)

Examples:

1. *Mr Y is employed by/has a fellowship with/is a registered PhD candidate of beneficiary Y as from 1 January 2014; Mr Y will not be eligible for a secondment from 1 March 2014 but would be eligible for secondment as from 1 July 2014.*

2. *Ms X is employed 50% part-time by beneficiary X as from 1 January 2014. Ms X will not be eligible for a secondment from 1 July 2014, but would be eligible for secondment as from 1 January 2015.*

The type of relationship (employment contract, fellowship or other) is NOT relevant — as long as it:

- complies with national law
- complies with internal practices and
- during the secondment: confers to the sending beneficiary/partner organisation/entity with a capital or legal link the necessary legal means in terms of controls and instructions to ensure the implementation of the activities in line with GA obligations.

  If this is not the case, the beneficiary/partner organisation/entity with a capital or legal link must conclude a contract which allows this (or a supplementary agreement) — before the secondment.

  Example: *A PhD-candidate can be seconded if s/he: has a contract allowing him/her to work full-time on the R&I activities of the action during the secondment under the instructions of the sending beneficiary/partner organisation/entity with a capital or legal link.*

- be incurred for secondments:
  - that last at **least 1 month** and **no longer than 12 months**

    Splitting into several periods is allowed.

    Example: *If a secondment is split into two-week periods, the person-month may be claimed (since the one-month minimum is satisfied). However, if the staff member participates only in the first two-week period and the second one never takes place, the beneficiary may not claim any person-months for the secondment.*

    Best practice: If the split is not already indicated in Annex 1, the coordinator should inform the Agency before the secondment.

    For the minimum duration, only splits within *secondments of* same staff, from same sending beneficiary/partner organisation to same hosting beneficiary/partner organisation can be added. Secondments from/to entities with a capital or legal link will be counted as secondments from/to the beneficiaries/partner organisations they are linked to.

    Example: *Two secondments of two weeks of the same staff member to different beneficiaries are not eligible since the minimum duration of 1 month is not reached.*

For the maximum duration, all secondments (and all splits) for the *same staff member* must be added.

- that are one of the following three:

  - secondments **between beneficiaries/entities with a capital or legal link** in different EU Member States (or H2020 associated countries) and between different sectors, i.e. academic and non-academic

    Both elements must be fulfilled (i.e. location in **different** EU Member States or H2020 associated **countries** AND **different sectors** (academic and non-academic sector).

    'Academic sector' means:

    - public or private higher education establishments awarding academic degrees
    - public or private non-profit research organisations whose primary mission is to pursue research or
    - international European interest organisations.

    'Non-academic sector' means any socio-economic actor not included in the academic sector.

  - secondments from a **beneficiary/entity with a capital or legal link** in an EU Member State (or H2020 associated country) **to** a **partner organisation/entity with a capital or legal link** in a third country

  OR

  - secondments **from** a **partner organisation/entity with a capital or legal link** in a third country listed in General Annex A to the Main Work Programme **to** a **beneficiary/entity with a capital or legal link** in an EU Member State (or H2020 associated country).

  Secondments from/to branches/departments of beneficiaries/partner organisations which are not separate legal entities are NOT eligible, if they are located in countries other than the country of their beneficiary/partner organisation.

  Examples:

  A and B exchange staff for 12 months within a RISE project. A sends 10 persons to B for one year (i.e. 120 person-months) and B sends the same number to A (also 120 person-months).

  Case 1: *A is a beneficiary established in an EU Member State or H2020 associated country and B is a partner organisation established in a third country listed in General Annex A to the Main Work Programme.*
  A may claim 240 person-months (120 for its own staff and 120 for the staff seconded by the partner organisation).

  Case 2: *A is a beneficiary established in an EU Member State or H2020 associated country and B is a partner organisation established in a third country NOT listed in General Annex A to the Main Work Programme.*
  A may claim only 120 person-months (for its own staff; the person-months of the staff seconded by the partner organisation are not eligible).

  Case 3: *A and B are both beneficiaries established in an EU Member State or H2020 associated country.*
  They may each claim 120 person-months (for their own staff).

  If a person is a staff member of two or more organisations which participate in a RISE project, s/he can NOT be seconded *from* both organisations.

  Example: *A researcher is both professor at the university and CEO of its own SME and both organisations are involved in a RISE project. This researcher can only be seconded from one of the two organisations.*

By contrast, a staff member can be seconded from one participating organisation *to* two or more participating organisations in a RISE project — as long as the total person-months per staff member do not exceed 12 *(see also Article 19)*.

⚠ **Other conditions** — Although NOT a cost eligibility condition for MSCA-RISE, but an 'other obligation' under Article 32:

- the top-up allowance must be fully used for the staff member (i.e. fully used to cover the travel, accommodation and subsistence costs of the staff member for whom it is claimed).

1.4 The **costs** are **calculated** (automatically by the IT system) as follows:

– for the top-up allowance:

amount per unit *(see Annex 2)* **x** number of months actually spent by the seconded staff members on the research and innovation activities (including travel) ('implemented person-months')

⚠ Beneficiaries may declare a **maximum** of **12 person-months** per seconded staff member. Person-months exceeding this number will be rejected by the Agency.

For **partial months** of recruitment, a pro-rata unit cost of 1/30 will be reimbursed for each day (for ease of implementation, each month is considered to have 30 days).

Example: *A staff member is seconded from a beneficiary to a partner organisation from 12 March to 25 August. The calculation is five months (from 12 March to 11 August) plus 14/30 (for the 14 days from 12 to 25 August). In this case, insert 5.47 as number of person-months.*

B. Institutional costs (B.1 Research, training and networking costs and B.2 Management and indirect costs) are eligible if the costs for the seconded staff members (see above) are eligible.

1. Institutional costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers**:

- research, training and networking costs (B.1) — for:
  - costs for training, transfer of knowledge and networking activities
  - costs for research expenses
- management and indirect[98] costs (B.2) — for the beneficiary's additional costs in connection with the action.

Project management — Coordination and administration tasks are considered **action tasks**.

Budget flexibility —There is some flexibility as regards the *use* of the amounts received:

- Redistributions of institutional unit costs within the consortium are allowed, but should be done via an internal agreement.
- Institutional unit costs should also be shared with entities with a capital or legal link and partner organisations which incurred costs for hosting secondments *(see Article 8)*.
- Research, training and networking unit costs should be used for the research, training and networking activities foreseen in Annex 1, but unused amounts may be used for other action-related purposes *(e.g. to cover travel and subsistence costs of a staff member, to organise additional training activities or horizontal networking events)*.
- Unit costs for management and indirect costs should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to cover travel and subsistence costs of a staff member, to organise additional training activities or horizontal networking events)*.

1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8194[99] and set out in Annex 2 and 2a of the GA.

This is currently:

- for research, training and networking costs: **EUR 1800** per researcher per month (person-month)
- for management and indirect costs: **EUR 700** per person-month (for beneficiaries that already receive an EU/Euratom operating grant[100] in the same period: only management costs, i.e. EUR 350 — unless they can demonstrate that the operating grant does not cover any costs of the action; *see Article 6.2.E H2020 General MGA*).

98 For the definition, *see Article 6.2 of the H2020 General MGA:* '**indirect costs**' are costs that are not directly linked to the action implementation and therefore cannot be attributed directly to it.

99 Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

100 For the definition, *see Article 121(1)(b) of the 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 EU policy.

In practice the declaration of institutional costs for MSCA grants is completely automatized because the IT system automatically calculates them on the basis of the number of person-months declared under budget category A 'costs for seconded staff members'.

1.3 The **eligibility** of the institutional costs is directly linked to (and conditional on) the eligibility of the costs for seconded staff members.

Institutional costs (research training and networking costs, management and indirect costs) are eligible only if ALL the eligibility conditions for the seconded staff members are met. Person-months which are not eligible for budget category A 'costs for seconded staff members' are also not eligible for budget category B 'institutional costs'.

Institutional costs can NOT be claimed separately *(e.g. management and indirect costs cannot be claimed without top-up allowance)*.

1.4 The **costs** are **calculated** (automatically by the IT system) like the costs for seconded staff members:

– for the research, training and networking costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the seconded staff unit cost)

– for the management and indirect costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the seconded staff unit cost)

⚠ **Budget flexibility** — Even if the consortium redistributes parts of the institutional unit costs, the reporting is always based on the implemented person-months.

6.3 Ineligible costs

'Ineligible costs' are:

(a) costs that do not comply with the conditions set out above (in Article 6.1), in particular costs incurred during suspension of the action implementation (see Article 49);

(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 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, unless it can demonstrate that the operating grant does not cover any costs of the action.

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

6.4 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION – THIRD PARTIES 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:

- call upon partner organisations to implement certain action tasks described in Annex 1 (i.e. seconding and hosting staff);
- call upon entities with a capital or legal link to the beneficiaries or to partner organisations[9], to implement certain action tasks described in Annex 1 (i.e. seconding and hosting staff).

In this case, the beneficiaries retain sole responsibility towards the Agency for implementing the action.

[9] '**Entities with a capital or legal link**' are entities that have a link with the beneficiary or partner organisations, in particular, a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For MSCA actions, the rules of the General MGA on third party involvement do not apply.

Instead, MSCA-RISE allows the beneficiaries to use:

– partner organisations

and

– entities with a capital or legal link to a beneficiary or a partner organisation

to carry out work under the action ('**third parties involved in the action**').

Beneficiaries using third parties remain **fully responsible** for them under the GA.

Best practice: In order to be able to fulfil this obligation, beneficiaries should make internal arrangements *(e.g. conclude partnership agreements with partner organisations)*.

Third parties involved in the action do not sign the GA *(see Article 1 H2020 General MGA)*.

Their costs are considered already covered by the unit cost paid to the beneficiaries; no additional costs will be reimbursed by the Agency. (Beneficiaries are however encouraged to share the unit costs received with them.)

'**Partner organisations**' are third parties involved in the action without a (capital or legal) link to a beneficiary.

They may participate in the exchanges by seconding and hosting staff.

⚠ **Secondments —** For MSCA-RISE, secondments are the core activity of the action. They can be between beneficiaries/entities with a capital or legal link OR between beneficiaries/entities with a capital or legal link and partner organisations (from a third country).

They must have a **minimum** duration of **1 month** and a **maximum** duration of **12 months** (per seconded staff member).

The beneficiaries remain **fully responsible** for the action implementation (in accordance with the GA) during the secondments.

Their involvement must be clearly described in Annex 1 (in particular, tasks to be carried out).

They cannot claim costs separately (since their costs are covered by the unit costs paid to the beneficiaries).

Partner organisations must be established in a non-associated third country (i.e. not EU Member State or H2020 associated country).

Entities with a capital or legal link are similar to **linked third parties** under Article 14 of the H2020 General MGA (i.e. entities with a link to a beneficiary or a partner organisation — which is neither limited to the action nor established for the sole purpose of its implementation).

They may participate in the exchanges by seconding and hosting staff.

Their involvement must be clearly described in Annex 1 (in particular, name of the entity, type of the link with the beneficiary/partner organisation and tasks to be carried out).

Contrary to linked third parties under Article 14 of the H2020 General MGA, however, entities with a capital or legal link can NOT claim costs separately (since their costs are covered by the unit costs paid to the beneficiaries).

Entities with a capital or legal link must fulfil the same conditions for participation and funding under H2020 as the beneficiary/partner organisation they are linked to (for instance, if linked to a beneficiary: be established in an EU Member State or H2020 associated country; if linked to a partner organisation: be established in a non-associated third country AND be established in the same country as their beneficiary/partner organisation.

Examples (eligible entities with capital or legal link):

1. *University X (established in France) is part of a Joint Research Unit (JRU) with beneficiary Y (also established in France). Mr. X is employed by university X and is to be sent on a secondment to beneficiary Z. University X will be considered as entity with a capital or legal link to beneficiary Y and can therefore second Mr. X.*

2. *SME X (established in Portugal) is a subsidiary of beneficiary Y (also established in Portugal). Ms. X is employed by SME X and is to be sent on a secondment to partner organisation Z. SME X will be considered as entity with a capital or legal link to beneficiary Y and can therefore second Ms. X.*

3. *Mr. X is formally employed by foundation X (established in Spain) which does the HR management for beneficiary Y (also established in Spain). Mr. X actually works with beneficiary Y and should be sent on a secondment to beneficiary Z. Foundation X will be considered as entity with a capital or legal link to beneficiary Y and can therefore second Mr. X.*

Examples (ineligible entities with capital or legal link):

1. *SME X (established in Germany) is a subsidiary of applicant Y (established in Greece). Ms. X is employed by SME X and is to be sent on a secondment to partner organisation Z. Since SME X is not established in the same country as applicant Y, it cannot act as entity with a capital or legal link for the purposes of a MSCA-RISE grant. Therefore, Ms X cannot be seconded.*

2. *University X (validated as academic; established in Sweden) is member of an association of universities (applicant Y; validated as non-academic). Mr. X is employed by university X and is to be sent on a secondment to applicant Z (validated as academic). University X cannot act as entity with a capital or legal link of applicant Y for the purposes of the MSCA-RISE grant because this would circumvent the inter-sector mobility rules (mix of academic and non-academic).*

ℹ For more information on conditions for participation and funding, *see the Main Work Programme — MSCA.*

Specific cases (third parties involved in the action):

Authorisation to administer — Coordinators that are secondary or higher education establishments and public bodies may exceptionally delegate the administration of the payments to another legal entity (third party), in most cases a foundation.

The third party must fulfil the following conditions:

- it must have granted an 'authorisation to administer' by the coordinator

AND

- it must be affiliated, controlled or set up by the coordinator in order to handle its administrative affairs, including receiving and administering EU funds.

> ⚠ **Project management** — Coordination and administration tasks are considered **action tasks**.
>
> ⚠ Coordinators using a third party with authorisation to administer remain **fully responsible** for it under the GA.

In this case, the bank account number to be provided under Article 21.8 must be that of the entity with the authorisation to administer and the payments will be transferred directly to it. The entity must therefore be registered in the Beneficiary Register and validated by the Commission/Agency. It will get its own PIC — although it is not a beneficiary.

Since MSCA-RISE uses unit costs, no additional costs arise for the action. The costs of the entity are covered by the unit costs paid to the coordinator *(see Article 6)*.

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION
[…]

Art. 18.1.2 Records and other documentation to support the costs declared

The beneficiaries must keep adequate **records and other supporting documentation** to prove the number of units declared.
[…]

1. Records and other supporting documentation

For MSCA-RISE, simplified rules on record-keeping apply: Beneficiaries only need to keep appropriate and sufficient evidence to prove that the person-months declared are correct, i.e.:

- proof that:
  - the eligibility conditions for the seconded staff members were complied with *(e.g. CV showing the researcher's seniority, copies of diplomas)*
  - the secondment was eligible (*e.g. agreement on the secondment; travel documents and/or access rights for the host organisation's premises to show the duration; lab books, registration documents, scientific articles, library records to show research and innovation activities)*

    The nature of the records and supporting documents to be kept by the beneficiary must be adequate to show the duration of the secondments clearly and unequivocally.
  - the obligations set out in Article 32 were complied with

    Thus for the obligation to fully use the unit cost for seconded staff members (to cover their travel, accommodation and subsistence costs): the beneficiaries must keep proof of the amounts paid *(e.g. bank transfers to the staff member, travel tickets, hotel accommodation, etc.)*.

This evidence must be verifiable, auditable and available.

It must be correctly archived — for at least 5 years after the balance is paid (three years for grants up to EUR 60 000) or longer if there are ongoing procedures *(such as audits, investigations or litigation)*. In this case the evidence must be kept until these procedures end.

⚠ Costs that are not supported by appropriate and sufficient evidence may be **rejected** (and other measures described in Chapter 6 may be applied as well).

Beneficiaries that throw supporting documents away during the retention period bear the **full risk** of rejection by the Agency.

Specific cases (record-keeping):

Documents for staff of the partner organisations and entities with a capital or legal link — For secondments from partner organisations/entities with a capital or legal link, it is the beneficiary that must keep the documents for the staff of the partner organisation/entity with a capital or legal link.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must:

- submit a '**progress report**' within 30 days after the end of each year, except when the periodic and final reports are due;
- organise a '**mid-term meeting**' between the beneficiaries, partner organisations, entities with a capital or legal link and the Agency before the deadline for the submission of the report for RP 1 (reporting period 1);
- submit any other deliverables identified in Annex 1, in accordance with the timing and conditions set out in it.

The beneficiaries must:

- submit a '**researcher declaration**' within 20 days of the secondment of each seconded staff member.

19.2 Consequences of non-compliance

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

1. Deliverable: Progress report

What & When? The coordinator must — after each year except if a periodic report is due (i.e. normally after the first and third year of the action) — submit to the Agency a progress report, to inform it about progress on the action.

How? The report must be uploaded directly in the Participant Portal.

2. Deliverable: Mid-term meeting

What & When? The coordinator must — before the deadline for the periodic report for RP 1 — organise a mid-term meeting.

Best practice: It is good practice to send the Agency a draft version of the periodic report (in good time before the meeting).

3. Deliverable: Researcher declaration

What & When? The beneficiary must submit to the Agency a 'researcher declaration' for each seconded staff member — within **20 days** from the start of the secondment.

It is important to give correct and complete information in the researcher declaration, since this information will be used to determine the eligibility of the person-months that are declared.

If a **secondment** is **split** in several stays of shorter duration, the researcher declaration must only be submitted once — at the beginning of the secondment — and indicate each split.

Example: *Beneficiary A is sending Mr A to partner organisation B for one year, though split in two half-year periods. In this case, A has to submit the researcher declaration only at the beginning of the first period of secondment, indicating the split. No additional declaration is necessary for the second half.*

If a staff member is seconded to **more than one beneficiary/partner organisation** within the action duration, several researcher declarations must be submitted (within 20 days from the start date of each secondment). Secondments to entities with a capital or legal link will be counted as secondments to the beneficiary/partner organisation they are linked to and must therefore be covered by the same researcher declaration.

Example: *Beneficiary A is sending Mr A to partner organisation B for half a year and to beneficiary C for half a year. In this case, the researcher declaration has to be submitted twice, each time within 20 days from the beginning of the secondment to a different beneficiary/partner organisation.*

How? The researcher declarations must be prepared and submitted directly in the Participant Portal.

Specific case (deliverables):

Researcher declaration for staff of the partner organisations and entities with a capital or legal link — For secondments from partner organisations/entities with a capital or legal link, it is the beneficiary that must submit the researcher declarations.

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

[…]

25.5 Access rights for seconded staff members

The beneficiaries must — on a royalty-free basis — give access to the seconded staff members to background necessary for their research and innovation activities under the action.

[…]

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

ARTICLE 31 — ACCESS RIGHTS TO RESULTS

[…]

31.6 Access rights for seconded staff members

The beneficiaries must — on a royalty-free basis — give access to the seconded staff members to results necessary for their research and innovation activities under the action.

[…]

1. Access rights for seconded staff members

In view of the key role of the seconded staff members in MSCA-RISE, the MSCA-RISE MGA foresees special access rights for them (in addition to those of the General MGA; *see Articles 25 and 31 H2020 General MGA*):

The beneficiaries must give the seconded staff members **access** to both **background** AND **results** necessary for their research and innovation activities.

> 'Background' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
>
> – is held by beneficiaries before they accede to the GA
>
> – is needed to implement the action or exploit the results
>
> AND that
>
> – has been identified by the beneficiaries in accordance with Article 24.
>
> 'Results' means any (tangible or intangible) output of the action, such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action as well as any rights attached to it, including intellectual property rights.

Beneficiaries must moreover ensure that **partner organisations** and **entities with a capital or legal link** give similar access.

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR SECONDED STAFF MEMBERS

ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR SECONDED STAFF MEMBERS

32.1 Obligations towards seconded staff members

The beneficiaries must respect the following **recruitment and working conditions** for the seconded staff member under the action:

(a) take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers and ensure that the seconded staff members are aware of them;

(b) ensure that the rights and obligations of the seconded staff members remain unchanged during the secondment;

(c) ensure that seconded staff members are reintegrated after the secondment;

(d) ensure that the seconded staff members enjoy at the place of the implementation at least the same standards and working conditions as those applicable to local persons holding a similar position;

(e) ensure that the seconded staff members are covered by an appropriate medical insurance scheme;

(f) ensure that the staff members are seconded full-time;

(g) ensure that the seconded staff members have the relevant expertise for the action;

(h) inform the seconded staff members about:

- the description, conditions, location and the timetable for the implementation of the secondment under the action;
- the rights and obligations of the beneficiary toward the seconded staff members under this Agreement;
- the obligation of the seconded staff members to complete and submit — at the end of the secondment — the evaluation questionnaire and — two years later — the follow-up questionnaire provided by the Agency;
- the arrangements related to the intellectual property rights between the beneficiary and the seconded staff members — during implementation of the secondment and afterwards;
- the obligation of the seconded staff members to maintain confidentiality (see Article 36);
- the obligation of the seconded staff members to ensure the visibility of EU funding in communications or publications and in applications for the protection of results (see Articles 27, 28, 29 and 38);

(i) assist the seconded staff members in the administrative procedures related to their secondment;

(j) use the costs of seconded staff members (see Article 6) to contribute to their subsistence and mobility.

32.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Recruitment and working conditions — Rights for the seconded staff members

In view of the key role of the seconded staff members in MSCA-RISE, the MSCA-RISE MGA foresees a series of obligations in order to guarantee best possible working conditions for them.

Main obligations (towards the staff members):

- Ensure that the seconded staff members have the **relevant expertise** to participate in the action

  The profiles of the staff to be seconded must be in line with the tasks and objectives described in Annex 1.

- Ensure that the seconded staff members enjoy at least the **same standards** and **working conditions** at the place of secondment as those applicable to persons holding a similar position there

- Ensure that the seconded staff members are covered by an appropriate **medical insurance** scheme

- Ensure that the staff members are seconded **full-time.**

  For part-time staff members this may require a change of their relationship (i.e. conclude a contract or a supplementary agreement), to allow the secondment to be implemented on a full-time basis.

- Ensure that the **rights and obligations remain unchanged** during the secondment

  Secondments — For MSCA-RISE, secondments are the core activity of the action *(see Article 8)*.

  Beneficiaries and partner organisations must:

  - not penalise the staff members or reduce their rights due to the participation in the action and
  - in particular, since their normal remuneration is not covered by the grant (which is only a top-up allowance to cover the travel, accommodation and subsistence costs of the secondment), continue to pay them as before, according to their internal practices.

  Changes in favour of the seconded staff member are of course accepted.

- Ensure that the seconded staff members are **reintegrated** (into the beneficiary/partner organisation/entity with a capital or legal link) after the secondment, so as to allow for a transfer of knowledge and maximise the impact of the action (as regards knowledge-sharing and long-term collaboration)

- Comply with the arrangements on **intellectual property rights**.

  Assistance with intellectual property rights can be obtained via the IPR Helpdesk[101].

- **Assist** the seconded staff members in the **administrative procedures** related to their secondment *(e.g. helping with visa procedures)*

- **Inform** the staff member about key elements of the grant

  Beneficiaries must inform seconded staff members of all details concerning the secondment and the research and innovation activities *(such as description, conditions, location, and timetable for implementation)*.

- Ensure that the costs for seconded staff members are **fully used for** the benefit of the **seconded staff** members

  They can be:

[101] Available at https://www.iprhelpdesk.eu/.

- paid directly to the seconded staff member in advance or via different instalments or
- managed centrally by the beneficiary according to the specific needs of the secondment.

2. Obligations on the seconded staff members

Although they do not need to be explicitly reflected in their employment contract (or fellowship or other relationship), some of the basic obligations under the MSCA-RISE MGA must also be respected by the seconded staff members.

Main obligations (of the staff member):

- Comply with the arrangements related to the **intellectual property rights**
- Maintain **confidentiality**
- Ensure the **visibility of EU funding**

  Seconded staff members must acknowledge funding under the MSCA grant in publications, communications or patent applications.
- Complete and submit — at the end of the secondment — the evaluation questionnaire and — two years later — the follow-up questionnaire provided by the Agency.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Communication activities by the beneficiaries

38.1.1 Obligation to promote the action and its results

The beneficiaries must **promote the action** and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a **mainstream media coverage** the beneficiaries must inform the Agency (see Article 52).

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

Unless the Agency requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the EU emblem and

(b) include the following text:

For communication activities: "This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

For infrastructure, equipment and major results: "This [infrastructure][equipment][insert type of result] is part of a project that has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

When displayed together 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.

[…]

1. Communication activities (beneficiaries) — Promoting the action — Mainstream media coverage

For MSCA, the rules for promoting the action are in principle the same as in the General MGA *(see Article 38.1.1 H2020 General MGA)*.

However, the beneficiaries must inform the Agency not only before a communication activity expected to have a *major* media impact, but before any activity expected to have **mainstream media coverage** (i.e. coverage in any forms of media, *e.g. print, TV, radio and electronic,* addressing a non-specialist, non-scientific audience, *e.g. local, regional or national news*). This

allows the Agency to ensure maximum publicity and to disseminate the coverage further — through social media, news updates, etc.

2. Visibility of EU funding

For MSCA, the same rules on visibility of EU funding apply as in the General MGA *(see Articles 27.3, 28.2, 29.4 and 38.1.2 H2020 General MGA)*.

In addition, the beneficiaries must make specific reference to the MSCA grant. Thus, the clause acknowledging EU funding is slightly adapted.

III.5 H2020 MGA MSCA-COFUND: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. Action: MSCA-COFUND

What? MSCA-COFUND funds:

- a regional, national or international doctoral or fellowship training programme for training, mobility and career development of researchers (— implemented by the beneficiary or a partner organisation).

MSCA-COFUND cover doctoral programmes for early-stage researchers (DP) and fellowship programmes for experienced researchers (FP).

MSCA-COFUND are mono-beneficiary actions.

They are funded under Part I of Horizon 2020, 'Marie Skłodowska-Curie actions' *(e.g. H2020-MSCA-COFUND-2014)*.

For more information on MSCA-COFUND, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the Main Work Programme — MSCA and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 for the beneficiary, by **budget category** (see Articles 5, 6).

4.2 Budget transfers

Not applicable

1. Budget categories

The MSCA-COFUND MGA does not use the budget categories of the General MGA.

Budget categories of the MSCA-COFUND MGA:

- costs for researchers:
  - costs for researchers in programmes implemented by the beneficiary
  - costs of providing financial support to costs for researchers in programmes implemented by a partner organisation
- management costs.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

2. Budget transfers

Given that MSCA-COFUND is a mono-beneficiary action, there is NO redistribution of person-months between *beneficiaries*.

Transfers between *budget categories* are formally NOT possible because all budget categories are linked to the *same* person-months declared for the recruited researchers (and it is therefore technically not possible to move budgeted amounts from one budget category to another).

⚠ **Budget flexibility** — There is however some flexibility as regards the *use* of the amounts received:

- The management unit cost should be shared with partner organisations which incurred costs for the implementation of a programme or for hosting secondments *(see Article 8)*.
- The management unit cost should be used for the management of the action, but unused amounts may also be used for other action-related purposes *(e.g. to increase the salary of the researchers)*.

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

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

[…]

5.2 Form of grant, reimbursement rate and form of costs

The grant reimburses **50 %** 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 form ('**form of costs**'):

(a) for **costs for researchers in a programme implemented by the beneficiary** (living allowance): on the basis of the amount(s) per unit set out in Annex 2 ('**unit costs**');

(b) for **costs of providing financial support to costs for researchers in a programme implemented by a partner organisation**: on the basis of the amount(s) per unit set out in Annex 2 (**unit costs**) and

(c) for **management costs**: on the basis of the amount per unit set out in Annex 2 (**unit costs**).

1. Reimbursement rate

How much? For MSCA-COFUND, the reimbursement rate is set at **50 %** *(see the Main Work Programme — MSCA)*.

2. Cost forms

The MSCA MGAs do not use the **cost forms** of the General MGA, but the **unit costs** set out in Decision C(2013) 8194[102].

For MSCA-COFUND, these are unit costs for:

- costs for researchers: living allowance
- management costs.

These are fixed amounts that must be multiplied by the number of months the recruited researchers spent on research training activities (person-months); they cannot be changed.

The eligibility conditions are set out in *Article 6*.

[102] Commission Decision C(2013) 8194 authorising the use of reimbursement on the basis of unit costs for Marie Skłodowska-Curie actions under the Horizon 2020 Framework Programme. Available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf.

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 (see Article 21) — 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 substantial errors, irregularities or fraud or serious breach of 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 eligible costs (unit costs; see Article 6) declared by the beneficiary and approved by the Agency (see Article 21).

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 substantial errors, irregularities or fraud or serious breach of obligations — Reduced maximum grant amount — Calculation

If the grant is reduced (see Article 43), the Agency will calculate the reduced maximum grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) 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 and 2 or
- the reduced maximum grant amount following Step 3.

1. Final grant amount

For MSCA, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since MSCA grants use only unit costs, there is NO reduction due to the no-profit rule in the MSCA MGAs (Step 3 in the Article 5.3 General MGA).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

Unit costs are eligible ('**eligible costs**'), if:

(a) they are calculated as follows:

{amounts per unit set out in Annex 2

multiplied by

the number of actual units};

(b) the number of actual units complies with the following conditions:

- the units must be actually used or produced in the period set out in Article 3;
- the units must be necessary for implementing the action or produced by it, and
- the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18).

1. Eligible costs

The grant can **only reimburse eligible costs** (i.e. costs that comply with the general and specific conditions set out in this Article) ('**reimbursement of eligible costs grant**').

⚠ ONLY **eligible costs** may be entered into the estimated budget for the action *(see Article 4)* or declared in the financial statements *(see Article 20)*.

Record-keeping & burden of proof — The **burden of proof** for eligibility is on the beneficiary. It must keep sufficient supporting documents *(see Article 18)* to show that the person-months it declares are eligible.

Compliance with eligibility rules may be subject to a **check or audit** by the Commission/Agency. Any ineligible costs found will be **rejected** *(see Article 42)*.

Article 6.1 refers to general eligibility conditions, applicable per cost form (for MSCA: only unit costs; *see Article 5*).

Article 6.2 refers to specific eligibility conditions, applicable per budget category *(see Article 4)*.

2. General conditions for unit costs to be eligible

The general conditions for eligibility of unit costs are the same as in the General MGA *(see Article 6.1 H2020 General MGA)*.

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 two budget categories:

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The MSCA MGAs have their **own budget categories**, with their own **types of costs**, **eligibility conditions** and **calculation rules**.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

- types of costs covered by the budget category
- cost form under which the costs must be declared (for MSCA: unit costs)
- eligibility conditions
- how the costs must be calculated.

A. Costs for researchers ('living allowance')

A.1 **Costs for researchers in a programme implemented by the beneficiary** are eligible, if the number of units declared corresponds to the actual number of months spent by the researchers on the research training activities and if the conditions set out in Article 15.1.1 are met.

A.2. **Costs of providing financial support to costs for researchers in a programme implemented by a partner organisation** are eligible, if the number of units declared corresponds to the actual number of months spent by the researchers on the research training activities and if the conditions set out in Article 15.1.1 are met.

1. Researcher costs (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the costs for the researchers (recruited either by the beneficiary or by the partner organisation implementing the programme), by providing for:

- a monthly living allowance (A.1 or A.2) — to cover the employment or fixed-amount fellowship with social security coverage (i.e. gross amount, including compulsory deductions under national law, *such as employer/employee social security contributions and direct taxes*).

Budget flexibility — There is NO flexibility as regards the *use* of the researcher unit cost (i.e. living allowance). It must be fully used for each researcher; it can NOT be used to pay other researchers or other types of costs *(see Article 15)*.

What not? Other costs of the beneficiary are not covered. Management costs are covered under budget category B 'management costs' *(see Article 6.2.B)*. Other costs *(such as mobility and family allowances, research, training and networking costs, indirect costs)* are NOT eligible under the grant; they may be funded through other sources (including other EU funding programmes).

Combining H2020 & other EU grants — A MSCA-COFUND grant does NOT prevent the beneficiary or partner organisations from applying for further (non-H2020) EU funding for their programme — for costs that are not eligible (or not declared) under the MSCA-COFUND grant.

For more information on how to combine EU funding from different programmes, *see the Online Manual (links to Regional funding).*

1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8194[103] and set out in Annex 2 and 2a of the GA.

This is currently:

- for the living allowance:
  - for early-stage researchers in doctoral programmes: EUR 3 710 per researcher per month (person-month)

[103] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

– for experienced researchers in fellowship programmes: EUR 5 250 per person-month.

⚠ Since MSCA-COFUND grants have a **reimbursement rate** of **50%**, the unit cost that the beneficiary receives is ONLY **EUR 1 855** and **EUR 2 625** respectively.

ℹ For the latest information on the amounts, *see the Main Work Programme — MSCA in force at the time of the call.*

In practice, the declaration of costs for MSCA grants is very simple and almost completely automatized: The beneficiary must only indicate the number of implemented person-months (for researchers recruited under the action) and the costs are then automatically calculated by the IT system.

1.3 Moreover, the costs (in practice for MSCA: the person-months) must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. the declared number of person-months must be linked to the implementation of the action, be incurred during the action duration, be identifiable and verifiable, etc.; *see Article 6.1*)
- fulfil the **additional** cost eligibility **conditions** set out in Article 15.1.1.

1.4 The **costs** are **calculated** (automatically by the IT system) as follows:

– for the living allowance:

amount per unit *(see Annex 2)* **x** number of months actually spent by the recruited researchers on the research training activities ('number of implemented person-months')

For **partial months** of recruitment, a pro-rata unit cost of 1/30 will be reimbursed for each day (for ease of implementation, each month is considered to have 30 days).

Example: *If the researcher spent 20 months and 15 days on the project, the calculation for the 15 days is:*

Periods in which a researcher was **absent** for more than 30 days (for reasons other than normal annual leave) can NOT be charged to the action (and must be removed from the financial statement, by changing the researcher declaration).

B. Management costs are eligible if the costs of the researchers (living allowance; see above) are eligible.

1. Management costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** only the:

- management costs (B) — for direct costs of managing the action.

Project management — Coordination and administration tasks are considered **action tasks**.

Budget flexibility — There is some flexibility as regards the *use* of the amounts received:

- The management unit cost should be shared with partner organisations which incurred costs for the implementation of a programme or for hosting secondments *(see Article 8)*.
- The management unit cost should be used for the management of the action, but unused amounts may be used for other action-related purposes *(e.g. to increase the salary of the researchers)*.

What not? Other costs (such as research, training and networking costs AND indirect costs) are NOT eligible under the grant; they may be funded through OTHER sources (including other EU funding programmes).

1.2 The costs must be **declared as** the unit cost fixed by Decision C(2013) 8194[104] and set out in Annex 2 and 2a of the GA.

This is currently:

- for management costs: EUR 650 per researcher per month (person-month).

Since MSCA-COFUND grants have a **reimbursement rate** of **50%**, the unit cost that the beneficiary receives is **EUR 325**.

For the latest information on the amount, *see the Main Work Programme — MSCA in force at the time of the call.*

In practice, the declaration of management costs for MSCA-COFUND grants is completely automatized because the IT system automatically calculates them on the basis of the number of person-months declared for the researcher costs.

1.3 The **eligibility** of the management costs is directly linked to (and conditional on) the eligibility of the costs for researchers.

Management costs are eligible only if ALL the eligibility conditions for the researchers are met. Person-months which are not eligible for budget category A 'costs for researchers' are also not eligible for budget category B 'management costs'.

Management costs can NOT be claimed separately (i.e. management costs cannot be claimed without living allowance).

1.4 The **costs** are **calculated** (automatically by the IT system) like the costs for researchers:

[104] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_msca_en.pdf

– for the management costs:

amount per unit *(see Annex 2)* **x** number of implemented person-months (declared for the researcher cost)

6.3 Ineligible costs

'**Ineligible costs**' are:

(a) costs that do not comply with the conditions set out above (in Article 6.1 and 6.2);

(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).

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

6.4 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

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

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

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

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

- call upon partner organisations to implement certain action tasks described in Annex 1 (i.e. implementing a doctoral or fellowship programme including recruiting researchers or hosting and training researchers during a secondment).

In this case, the beneficiary retains sole responsibility towards the Agency for implementing the action.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For MSCA actions, the rules of the General MGA on third party involvement do not apply.

Instead, MSCA-COFUND allows the beneficiary to use:

– partner organisations

to carry out work under the action ('**third parties involved in the action**').

A beneficiary using third parties remains **fully responsible** for them under the GA.

Best practice: In order to be able to fulfil this obligation, the beneficiary should make internal arrangements *(e.g. conclude partnership agreements with partner organisations)*.

Third parties involved in the action do not sign the GA *(see Article1 H2020 General MGA)*.

Their costs are considered already covered by the unit cost paid to the beneficiary; no additional costs will be reimbursed by the Agency. (The beneficiary is however encouraged to share the unit costs received with them.)

'**Partner organisations**' are third parties involved in the action without a (capital or legal) link to the beneficiary.

They may be used to:

– implement a doctoral or fellowship programme (i.e. recruit the researchers)

– provide training and hosting of researchers during a secondment *(see Article 15)*.

⚠ **Secondments —** For MSCA-COFUND, secondments can be:

- (optional) additional periods of research training with a partner organisation, in order to further enrich the training experience of the researchers

and/or

- for fellowship programmes similar to MSCA-IF GF: (mandatory) outgoing phase with a partner organisation (from a third country).

The beneficiary remains **fully responsible** for the action implementation (in accordance with the GA) also during secondments.

Partner organisations can recruit the researchers (and MUST do so if it is the partner organisation that implements the doctoral or fellowship programme; *see Article 15.1.1(b)*).

Their involvement must be clearly described in Annex 1 (in particular, tasks to be carried out).

They cannot claim costs separately (since their costs are covered by the unit costs paid to the beneficiary).

Partner organisations that implement a doctoral or fellowship programme must be established in an EU Member State, H2020 associated country, or third country listed in General Annex A to the *Main Work Programme*. Partner organisations hosting secondments can be established anywhere.

ARTICLE 15 — FINANCIAL SUPPORT TO OR IMPLEMENTATION OF A *[DOCTORAL] [FELLOWSHIP]* PROGRAMME

ARTICLE 15 — FINANCIAL SUPPORT TO OR IMPLEMENTATION OF A *[DOCTORAL] [FELLOWSHIP]* PROGRAMME

15.1 Rules for providing financial support to or implementation of a *[doctoral][fellowship]* programme

15.1.1 The beneficiary must ensure that the ***[doctoral][fellowship]* programme** (implemented by itself or a partner organisation) complies with the following conditions:

(a) **types of programme**:

[OPTION 1 for DPs: *The programme must concern research training activities for recruited researchers that lead to the award of a doctoral degree ('**doctoral programme**');**]***

[OPTION 2 for FPs: *The programme must concern fellowships for research training activities for recruited researchers ('**fellowship programme**').*

*For fellowships where the main part of the research training activity does not take place in an EU Member State or associated country[5], the return phase to an EU Member State or associated country may not be more than 50% of the total duration of the research training activity;**]***

(b) **categories of persons** that may be supported by the programme:

[OPTION 1 for DPs: *The doctoral programme must support researchers, who — at the date of the call deadline or recruitment —:*

- *are '**early-stage researchers**' (i.e. in the first four years of their research careers and not have a doctoral degree);*
- *show **transnational mobility** by carrying out the research training activities in a country (or — in case of international European interest organisations — with this organisation) where they have not resided or carried out their main activity for more than 12 months in the 3 years immediately before the call deadline or recruitment — unless:*
  - *otherwise specified in Annex 1 for existing programme or*
  - *this time was as part of a procedure for obtaining refugee status under the Geneva Convention[6];*
- *are nationals or long-term residents of an EU Member State or associated country[7], in case of research training activities carried out in a country other than an EU Member State or associated country;*
- *fulfil any additional conditions set out in Annex 1.**]***

[OPTION 2 for FPs: *The fellowship programme must support researchers, who — at the date of the call deadline or recruitment —:*

- *are '**experienced researchers**' (i.e. in possession of a doctoral degree or have at least four years of research experience);*
- *show **transnational mobility** by carrying out the research training activities in a country (or — in case of international European interest organisations — with this organisation) where they have not resided or carried out their main activity for more than [**OPTION A by default:** 12 months in the 3][**OPTION B for actions with activities similar to the MSCA-IF Society and Enterprise Panel, Career Restart Panel and Reintegration Panel:** 3 years in the 5] years immediately before to the call deadline or recruitment — unless:*

- *otherwise specified in Annex 1 for existing programmes or;*
- *this time was part of a procedure for obtaining refugee status under the Geneva Convention[8];*

- *are nationals or long-term residents of an EU Member State or associated country, in case of research training activities carried out in a country other than an EU Member State or associated country;*
- *fulfil any additional conditions set out in Annex 1.]*

Researchers that are already permanently employed by the entity where the research training activities take place may not be supported.

(c) **procedure and criteria for selecting researchers** in the programme:

[OPTION 1 for DPs: *Researchers must be selected following an open, transparent, merit-based, impartial and equitable selection procedure, as described in Annex 1.*

*Vacancies must be internationally advertised and published (including on the web-sites requested by the Agency).****]***

[OPTION 2 for FP: *Researchers must be selected following an open, transparent, merit-based, impartial and equitable selection procedure, based on international peer review, as described in Annex 1.*

The selection committee(s) must bring together diverse expertise, have an adequate gender balance and include members from other countries and with relevant experience to assess the candidates.

Fellowships must be granted via regular calls that are internationally advertised and published (including on the web-sites requested by the Agency) and have fixed deadlines or regular cut-off dates.

*There must be no more than 4 deadlines or cut-off dates per year.****]***

(d) **conditions for the recruitment** of researchers under the programme:

- researchers must be recruited under an **employment contract** (or other direct contract with equivalent benefits, including social security coverage) or — if not otherwise possible under national law — under a fixed-amount-fellowship agreement with minimum social security coverage;
- researchers must be recruited for at least 3 months;
- ***[OPTION 1 for DPs:*** *for researchers recruited under an employment contract (or other direct contract with equivalent benefits, including social security): the total remuneration costs (salaries, social security contributions, taxes and other costs included in the remuneration) for each researcher per month are equal to or higher than EUR 2 597.*

  *For researchers recruited under a fixed-amount-fellowship agreement: the total costs of each fixed-amount fellowship per month are equal to or higher than EUR 1 298.50;****]***
- ***[OPTION 2 for FPs:*** *for researchers recruited under an employment contract (or other direct contract with equivalent benefits, including social security): the total remuneration costs (salaries, social security contributions, taxes and other costs included in the remuneration) for each researcher per month are equal to or higher than EUR 3 675.*

  *For researchers recruited under a fixed-amount-fellowship agreement: the total costs of each fixed-amount fellowship per month are equal to or higher than EUR 1 837.50.****]***

15.1.2 In addition, the beneficiary must:

- for programmes implemented by itself:
  - take measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers[9] and ensure that the researchers are aware or them;
  - ensure that researchers enjoy — wherever the research training activities take place — the same standards of safety and occupational health as those of local researchers holding a similar position;
  - ensure that researchers are provided with the means to carry out the research training activities (including the infrastructure, equipment and products);
  - ensure that researchers receive appropriate assistance in all administrative procedures before national authorities;
  - ensure that researchers are employed full-time, unless duly justified for reasons associated with personal or family reasons;
  - ensure that researchers work exclusively on the research training activities;
  - ensure that the research training activities (including activities raising ethical issues and research on human embryos or human embryonic stem cell) comply with the ethical principles set out in Article 34;
  - ensure that the researchers are informed that they are 'Marie Skłodowska-Curie fellows';
  - ensure that researchers are paid in accordance with their contract (employment contract, other direct contract or fixed-amount fellowship agreement);
  - ensure that the contract (employment contract, other direct contract or fixed-amount fellowship agreement) complies with the provisions of this Agreement and specifies the research training activities;
  - ensure that the contract (employment contract, other direct contract or fixed-amount fellowship agreement) specifies arrangements relating to confidentiality and intellectual property rights (in particular to access to background, use of results, promoting the action) — during the research training activities and afterwards;
  - inform the researchers about their obligation to complete and submit — at the end of the research training activities — the evaluation questionnaire and — two years later — a follow-up questionnaire provided by the Agency;
  - ***[OPTIONS for DPs:****ensure a fair gender representation in the recruited researchers (by promoting genuine equal access opportunities between men and women throughout the recruitment process);*
  - *appoint a supervisor with adequate experience to provide the researchers with academic support and a career plan.****]***
- for programmes implemented by a partner organisation:
  - ensure that the partner organisation complies with the obligations set out in this Article and

- ensure that the partner organisation allows that the Agency, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Article 22 and 23.

15.2 Consequences of non-compliance

If a beneficiary breaches its obligations under Article 15.1.1, the costs of the researchers will be ineligible (see Article 6) and will be rejected (see Article 42).

If the beneficiary breaches its obligations under Article 15.1.2, the grant may be reduced (see Article 43).

Such breaches may also lead to the application of any of the other measures provided for in Chapter 6.

[5] For the definition, see Article 2.1(3) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" (**'Rules for Participation Regulation No 1290/2013'**) (OJ L 347, 20.12.2013 p.81): '**associated country**' means a third country which is party to an international agreement with the Union, as identified in Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013. Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013 sets out the conditions for association of non-EU countries to Horizon 2020.

[6] 1951 Refugee Convention and the 1967 Protocol.

[7] For the definition, see Article 2.1(3) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.12.2013 p.81): '**associated country**' means a third country which is party to an international agreement with the Union, as identified in Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013. Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013 sets out the conditions for association of non-EU countries to Horizon 2020.

[8] 1951 Refugee Convention and the 1967 Protocol.

[9] Commission Recommendation No 251/2005/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).

1. Providing financial support — Implementing a doctoral/fellowship programme

MSCA-COFUND can provide support both for a programme implemented by the beneficiary itself or for a programme of a partner organisation (which the beneficiary funds by providing financial support).

'Providing financial support' means that the beneficiary passes on the EU support it receives via the MSCA-COFUND grant to the partner organisation that implements the doctoral/fellowship programme (also called 'cascade funding').

⚠ Article 15 contains both additional cost eligibility conditions (in Article 15.1.1) and 'other obligations' (in Article 15.1.2).

2. Additional cost eligibility condition: Types of programme — Categories of persons

The beneficiary/partner organisation must implement one of the following **types of** research training **programme** supporting transnational mobility:

– doctoral programme (DP), i.e. a programme with research training activities for recruited early-stage researchers that leads to the award of a doctoral degree

  The degree does not necessarily need to be awarded within the action duration. However, if requested by the Agency, the beneficiary must be able to provide proof that the researcher actually received (or failed the examination for) the doctoral degree.

OR

- fellowship programme (FP), i.e. a programme with fellowships for recruited experienced researchers.

The **researchers** must — at the date of the call deadline or recruitment —:

- be one of the following two:
  - **early-stage researchers** (i.e. NOT have a doctoral degree AND be in the first four years (full-time-equivalent research experience) of their research career) or
  - **experienced researchers** (i.e. have a doctoral degree OR have at least four years (full-time-equivalent research experience) of research career).

  Years of '**research career**' are counted from the date when the researcher obtained a degree entitling him/her to embark on a doctoral programme (either in the country in which it was obtained or in which s/he is recruited) — even if the doctorate was never started or envisaged.

- comply with the **mobility rule**, i.e. not have resided or carried out their main activity *(work, studies, etc.)* in the country of the beneficiary/partner organisation for more than:
  - for fellowship programmes similar to MSCA-IF Society and Enterprise Panel, Career Restart Panel and Reintegration Panel: 3 years in the 5 years immediately before the recruitment date or call deadline
  - for all other programmes (doctoral programmes and other fellowship programmes): 12 months in the 3 years immediately before the recruitment date or call deadline

  — unless Annex 1 of the GA specifies otherwise for an already existing programme or the beneficiary/partner organisation is an 'international European interest organisation'[105], for whom the mobility rule is limited to time spent *with* them.

  Exceptions in Annex 1 are only possible for existing programmes (NO exceptions for new programmes).

  Short stays (such as holidays), compulsory national services (such as mandatory military service) and procedures for obtaining refugee status under the Geneva Convention[106] are NOT counted.

  Researchers are NOT eligible if they are already permanently employed by the entity where the research training activities take place.

- if the programme is implemented by a partner organisation established in a **third country** (only third countries listed in General Annex A to the Main Work Programme) or if a secondment to a partner organisation in a non-associated third country constitutes the ***main* part** of the research training activities: be nationals or **long-term residents** of a EU Member State or H2020 associated country.

  'Long-term resident' normally means full-time research activity in a EU Member State or H2020 associated country — for 5 or more consecutive years.

  NO other restrictions on researcher nationality or researcher origin or destination allowed.

3. Additional cost eligibility condition: Selection procedure

[105] For the definition, *see Article 2.1(12) of the Rules for Participation Regulation No 1290/2013:* '**international European interest organisation**' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe.

[106] 1951 Refugee Convention and the 1967 Protocol.

The beneficiary/partner organisation must select researchers in line with the following criteria:

- open
- transparent
- merit-based
- impartial
- equitable
- described in Annex 1 and
- for fellowship programmes: based on international peer review.

For doctoral programmes: the beneficiary/partner organisation must publish vacancies as widely as possible

- at international level and
- on web-sites requested by the Agency *(e.g. on EURAXESS Jobs[107])*.

For fellowship programmes: the beneficiary/partner organisation must publish calls for proposals (with a **maximum** of **4** fixed deadlines or regular cut-off dates **per year**) as widely as possible:

- at international level and
- on web-sites requested by the Agency *(e.g. on EURAXESS Jobs)*.

4. Additional cost eligibility condition: Recruitment and working conditions

The beneficiary/partner organisation must recruit the researchers under an **employment contract/equivalent direct contract** (i.e. other direct contract with equivalent benefits and social security coverage), including:

- sickness, parental, unemployment and invalidity benefits
- pension rights and
- benefits for accidents at work and occupational diseases.

If national law prevents them from recruiting researchers under an employment contract/equivalent direct contract, the beneficiary/partner organisation may — exceptionally and subject to the Agency's prior agreement— offer a **fixed-amount fellowship** with minimum social security coverage, including:

- sickness, parental and invalidity benefits and
- benefits for accidents at work and occupational diseases.

In this case, the living allowance will be reduced by 50%.

The social security coverage must be guaranteed for the entire recruitment of the researcher (i.e. also during secondments, if any).

Staff provided by a temporary work agency — The beneficiary/partner organisation must always recruit researchers directly. Recruitments via other means *(e.g. temporary work agency)* are NOT allowed.

[107] Available at http://ec.europa.eu/euraxess/.

The researchers must be recruited for **at least 3 months**.

Researchers recruited under an employment contract/equivalent direct contract must receive a **minimum remuneration —** monthly **living allowance** (i.e. gross amount including salary, social security contributions, taxes and other costs included in the remuneration) and, if applicable, a single mobility allowance for the researcher to take up the doctoral or fellowship programme (to be funded through other sources) **—** of:

- for early-stage researchers (doctoral programmes): EUR 2 597
- for experienced researchers (fellowship programmes): EUR 3 675.

These amounts are halved for **fixed-amount fellowship agreements** (i.e. for early stage researchers EUR 1 298,50; for experienced researchers EUR 1 837,50).

Lower payments are considered as underpayment.

⚠ Since the MSCA-COFUND grant reimburses 50% of the researcher unit cost (i.e. EUR 1 855 and EUR 2 625 respectively), this means that the grant covers only a part of the minimum remuneration. The **beneficiary must bear** ('co-fund') the **difference** of **EUR 742** or **EUR 1050** per researcher.

It also means that there can be **NO budget flexibility**. The researcher unit cost must have been fully incurred for the benefit of the researcher (i.e. fully paid to the individual for whom they are claimed). There can be no amounts left (which the beneficiary could use for other action-related activities).

The total cost of the doctoral/fellowship programme, in particular the amounts to be provided for the benefit of the researchers and for the hosting organisation, must be specified in Annex 1.

A beneficiary with accounting in a **currency other than** the **euro** must ensure that — by the end of the doctoral/fellowship programme — the average monthly allowance (over the duration of the programme) respects the above-mentioned minimum.

Amounts to be paid in **other currencies** must be converted into euro as follows:

- if a daily rate is published in the C series of the *Official Journal of the European Union* for the currency in question: amounts must be converted into euro at the average of the daily exchange rates published over the corresponding reporting period, as reported on the ECB website[108]
- if no daily rate is published: amounts must be converted at the average of the monthly accounting rates over the reporting period, using the currency converter on the Commission's website[109].

For ease of implementation, monthly allowances for the recruited researchers can be calculated using a **conservative exchange rate**, if a corrective payment is then made (to the researchers) immediately after the end of the reporting period. This must be clearly explained in the employment contract/equivalent direct contract or fixed-amount-fellowship agreement.

The Agency will check if the living allowance was used fully for the benefit of the researchers. Any underpayments, if not corrected, may lead to a rejection of costs (for that researcher).

5. 'Other obligations'

[108] Available at http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html
[109] Available at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

In addition to the additional cost eligibility conditions in Article 15.1.1, the beneficiary/partner organisation must comply with the following 'other obligations':

- the researchers must:
  - be **employed full-time**

    This also means that a researcher can NOT benefit from two MSCA grants at the same time.
  - **work exclusively** on the research training activities carried out under the action (i.e. may not combine several activities)

    Complementary skills training *(e.g. a teaching activity as part of the research training)* is possible, but must NOT jeopardise the research training activities.
  - complete and submit — at the end of the training — the evaluation questionnaire and — two years later — follow-up questionnaire provided by the Agency
- the contract must set out arrangements relating to **confidentiality** and **intellectual property rights**.

  Assistance with intellectual property rights can be obtained via the IPR Helpdesk[110].
- for doctoral programmes: the beneficiary/partner organisation must:
  - ensure **gender balance** regarding the recruited researchers
  - appoint a **supervisor** with adequate experience to provide the researchers with academic support and a career development plan.

[110] Available at https://www.iprhelpdesk.eu/.

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

[…]

18.1.2 Records and other documentation to support the costs declared

The beneficiary must keep adequate **records and other supporting documentation** to prove the number of units declared and the total remuneration or fixed-amount fellowship costs of the recruited researchers.

[…]

1. Records and other supporting documentation

For MSCA-COFUND, simplified rules on record-keeping apply: The beneficiary only needs to keep appropriate and sufficient evidence to prove that the person-months declared are correct, i.e.:

- the employment contracts (or other suitable documents, *e.g. fixed-fellowship agreements*)
- proof that:
  - the eligibility conditions for the researchers were complied with *(e.g. CV showing the researchers' seniority, copies of diplomas, documents relating to selection procedure)*
  - the researchers actually worked on the project *(e.g. lab books, scientific articles, library records)*
  - the obligations set out in Article 15 were complied with
  - the minimum remuneration was paid to the researchers.

This evidence must be verifiable, auditable and available.

It must be correctly archived — for at least 5 years after the balance is paid (three years for grants up to EUR 60 000) or longer if there are ongoing procedures *(such as audits, investigations or litigation)*. In this case the evidence must be kept until they end.

⚠ Costs that are not supported by appropriate and sufficient evidence may be **rejected** (and other measures described in Chapter 6 may be applied as well).

A beneficiary that throws supporting documents away during the retention period bears the full risk of rejection by the Agency.

Specific case (record-keeping):

Documents for a programme implemented by a partner organisation — For a programme implemented by a partner organisation, it is the beneficiary that must keep the documents also for the partner organisation.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The beneficiary must

- submit a '**researcher declaration**' within 20 days of the start of the research training activities, for each researcher;
- organise a **'mid-term meeting'** with the Agency;
- submit any **other deliverables** identified in Annex 1, in accordance with the timing and conditions set out in it.

19.2 Consequences of non-compliance

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

1. Deliverable: Researcher declaration

What & When? The beneficiary must submit to the Agency a researcher declaration for each recruited researcher — within **20 days** of the start of the research training activities of the researcher.

It is important to give correct and complete information in the researcher declaration since the data will be automatically transmitted to Annex 4 (financial statement), for calculating the living allowance units. If the researcher declaration is not provided, it will NOT be possible to declare person-months for that researcher.

How? The researcher declarations must be prepared and submitted directly in the Participant Portal.

2. Deliverable: Mid-term meeting

What & When? The beneficiary must organise a mid-term meeting with the Agency to present the implementation of the action in the light of the schedule in Annex 1 .

Best practice: Please contact the Agency for the timing.

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND

[…]

25.5 Access rights for the researcher

The beneficiary must — on a royalty-free basis — give access to the recruited researcher to background necessary for their research training activities under the action.

[…]

1. Access rights for the researcher

In view of the key role of the recruited researchers in MSCA-COFUND, the MSCA-COFUND MGA foresees special access rights for them (in addition to those of the General MGA; *see Articles 25 and 31 H2020 General MGA)*:

The beneficiary must give the recruited researchers **access** to both **background** AND **results** necessary for their research training activities.

> 'Background' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
>
> – is held by the beneficiary before it accedes to the GA (i.e. before grant signature)
>
> – is needed to implement the action or exploit the results
>
> AND that
>
> – has been identified by the beneficiary in accordance with Article 24.
>
> 'Results' means any (tangible or intangible) output of the action, such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action as well as any rights attached to it, including intellectual property rights.

The beneficiary must moreover ensure that **partner organisations** (if any) give similar access.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Communication activities by the beneficiary

38.1.1 Obligation to promote the action and its results

The beneficiary must **promote the action** and its results, by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the dissemination obligations in Article 29, the confidentiality obligations in Article 36 or the security obligations in Article 37, all of which still apply.

Before engaging in a communication activity expected to have a **mainstream media coverage** the beneficiaries must inform the Agency (see Article 52).

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

Unless the Agency requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.) and any infrastructure, equipment and major results funded by the grant must:

(a) display the EU emblem and

(b) include the following text:

For communication activities: "This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

For infrastructure, equipment and major results: "This [infrastructure][equipment][insert type of result] is part of a project that has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

When displayed together 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.

[…]

1. Communication activities (beneficiary) — Promoting the action — Mainstream media coverage

For MSCA, the rules for promoting the action are in principle the same as in the General MGA *(see Article 38.1.1 H2020 General MGA)*.

However, the beneficiary must inform the Agency not only before a communication activity expected to have a *major* media impact, but before any activity expected to have **mainstream media coverage** (i.e. coverage in any forms of media, *e.g. print, TV, radio and electronic,*

addressing a non-specialist, non-scientific audience, *e.g. local, regional or national news*). This allows the Agency to ensure maximum publicity and to disseminate the coverage further — through social media, news updates, etc.

2. Visibility of EU funding

For MSCA, the same rules on visibility of EU funding apply as in the General MGA *(see Articles 27.3, 28.2, 29.4 and 38.1.2 H2020 General MGA)*.

In addition, the beneficiary must make specific reference to the MSCA grant. Thus, the clause acknowledging EU funding is slightly adapted.

IV. SME Instrument MGAs

IV.1 Background information and approach

The SME Instrument Model Grant Agreements are used for SME Instrument actions only, i.e.:

- SME Ph1
- SME Ph2.

The SME Instrument MGAs follow the General MGA for numbering and content, except for:

The H2020 MGA SME Ph1 deviates from the General MGA as follows:

- Article 4 (estimated budget of the action)
- Article 5 (maximum grant amount, form of grant and reimbursement rate)
- Article 6 (lump sum specific form of costs)
- Article 7 (specific provision for SME Ph1)
- Article 8, 12, 14, 15, 16, 23a-33, 37, 39 (not applicable)
- Article 10 (SME Ph1 specific provision for purchase)
- Article 13 (SME Ph1 specific provision subcontracting)
- Article 18 (SME Ph1 specific provision for record-keeping)
- Article 20 (SME Ph1 specific reporting provisions)
- Article 21 (SME Ph1 specific payment provisions)
- Article 36 (SME Ph1 specific provision on confidentiality)
- Article 38 (SME Ph1 specific provision on promoting the action)
- Article 42 (SME Ph1 specific provision for lump-sum)
- Article 50 (SME Ph1 specific provision for lump-sum)

- Annex 2 Model for the estimated budget for the action
- Annex 4 Model for the financial statement

The H2020 MGA SME Ph 2 deviates from the General MGA as follows:

- Article 5.2 (SME Ph2 specific provisions on reimbursement rate)
- Article 13 (SME Ph2 specific provisions on subcontracting)
- Article 26.3 (SME Ph2 ownership of results, rights of third parties)

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Articles 11, 12, 14, 15, 16, 23a - 33, 37, 39 H2020 MGA SME Ph1, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific explanation or interpretation for SME Instrument actions are added:

for SME Ph1:
- Article 2 (SME Ph1 actions)
- Article 8 (SME Ph1 rules on third party involvement)

For SME Ph2:
- Article 2 (SME Ph2 actions)
- Article 4.1 (SME Ph2 budget categories)

- Article 6 (SME Ph2 eligible and ineligible costs)
- Article 8 (SME Ph2 rules on third party involvement)
- Article 20 (SME Ph2 reporting)

The annotations (for both Ph1 and Ph2) are based on the mono-beneficiary version, since it is the most common for SME Instrument actions. They normally also apply to multi-beneficiary grant agreements. Where there are significant differences (i.e. Articles 21, 41, 44 and 50), the multi-beneficiary version of the Article is shown.

IV.2 H2020 MGA SME Ph1: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. SME Instrument Ph1 actions

What? SME Instrument Ph1 funds:

- the feasibility study for an innovation idea (i.e. a 'proof of concept' or 'business plan' for new, altered or improved product, process or service).

The innovation idea must have commercial potential and considerable novelty for its sector (i.e. for technological innovation ideas: 'technology readiness level' of 6 or above*; see General Annex G to the Main Work Programme*).

The feasibility study of Phase 1 should cover all topics that are necessary to assess quality and potential of the innovation idea *(e.g. risk assessment, market study, user involvement, intellectual property management, innovation strategy development, partner search, feasibility of concept etc.)*.

The implementation in Phase 2 must then focus on innovation activities *(e.g. demonstration, testing, prototyping, piloting, scaling-up, miniaturisation, design, market replication)* but may also include some research.

If provided for in the work programme/call, an SME Instrument Ph2 action may exceptionally concern pre-dominantly *research* activities. In this case, it will be funded with a GA based on the General MGA (instead of the SME Instrument Ph2 MGA).

SME actions are normally mono-beneficiary actions, but can also be multi-beneficiary.

SME actions are funded under Part II of Horizon 2020, 'Innovation in SMEs' (*e.g. H2020-SMEINST-01-2016-2017)*.

For more information on SME Instrument Ph1 actions*, see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding*, see the Online Manual or the General Annexes to the Main Work Programme and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 budget category, the estimated eligible costs and the form of costs (see Articles 5 and 6).

4.2 Budget transfers

Not applicable

1. Budget category

The SME Ph 1 MGA does not use the budget categories of the General MGA.

Since these grants consist in a single lump sum, there is only one budget category.

Budget category of the SME Ph1 MGA:

- costs for the feasibility study (direct and indirect costs)

The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM OF COSTS

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM OF COSTS

5.1 Maximum grant amount

The **maximum grant amount** is **EUR 50 000** (fifty thousand euros).

5.2 Form of grant, reimbursement rate and form of costs

The grant reimburses 70 % 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 71 429 (seventy one thousand four hundred and twenty nine).

Eligible costs (see Article 6) for the costs for the feasibility study must be declared as the lump sum set out in Annex 2 (i.e. under the form of 'lump sum costs').

1. Maximum grant amount — Reimbursement rate — Cost forms

How much & which form? The SME Ph 1 MGA does not use the **cost forms** of the General MGA, but only the **lump sum** set out in Decision C(2013) 8198[111].

The lump sum has been set at EUR 71 429, to give a round amount of EUR 50 000 when the reimbursement rate of 70 % is applied. It is one amount (for the entire consortium).

The eligibility conditions are set out in Article 6. If the action is correctly implemented, the beneficiaries are entitled to receive this fixed amount of EU funding (lump sum).

The lump sum is deemed to **cover ALL** (direct and indirect) **costs** that are incurred for the feasibility study. NO other costs will be reimbursed.

[111] Commission Decision C(2013) 8198 of 10 December 2013 authorising the reimbursement on the basis of a lump sum for SME instrument phase 1 actions under the Horizon 2020 Framework Programme. Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-ph1_en.pdf.

5.3 Final grant amount — Calculation

The final grant amount depends on the proper implementation of the action in accordance with the Agreement's terms and conditions.

This amount is calculated by the Agency — when the payment of the balance is made (see Article 21) — in the following steps:

Step 1 — Application of the reimbursement rate

Step 2 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations

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

The reimbursement rate (see Article 5.2) is applied to the eligible costs (lump sum costs; see Article 6) declared by the beneficiary and approved by the Agency (see Article 21).

5.3.2 Step 2 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations— Reduced maximum grant amount — Calculation

If the grant is reduced (see Article 43), the Agency will calculate the reduced maximum grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) from the maximum grant amount set out in Article 5.1.

In this case, the final grant amount will be the lower of the following two:

- the amount obtained in Step 1 or
- the amount obtained in Step 2.

1. Final grant amount

For SME Ph1 grants, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since they are lump sum grants (and the amount declared is pre-filled by the system), there is NO:

- limit to the maximum grant amount or
- reduction due to the no-profit rule.

5.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 22) — the Agency rejects costs (see Article 42) or reduces the grant (see Article 43), it will calculate the '**revised final grant amount**'.

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;
- in case of **reduction of the grant**: in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations (see Article 43.2).

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

1. Revised final grant amount

For SME Ph1 grants, the rules on the calculation of the revised final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since they are lump sum grants, improper implementation of the action leads to *ineligibility* of the costs (NOT to grant *reduction*). Therefore, the grant reduction mentioned in this provision does not relate to improper implementation of the action (but only to other breaches and substantial errors, irregularities and fraud; *see Article 43*).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 Eligible costs

Costs for the budget category:

A. Costs for the feasibility study (direct and indirect costs)

are eligible ('eligible costs'), if they correspond to the lump sum set out in Annex 2 and if the corresponding tasks or parts of the action have been properly implemented in accordance with Annex 1.

1. Eligible costs

The SME Ph1 MGA has its **own budget category**, with its own **types of costs**, **eligibility conditions** and **calculation rules**.

2. Costs for the feasibility study (A.): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? The budget category A 'costs for the feasibility study' **covers** the (direct and indirect costs) for the feasibility study for the innovation idea *(see Article 2)*.

⚠ The lump sum is deemed to **cover ALL** (direct and indirect) **costs** that are incurred for the feasibility study. NO other costs will be reimbursed.

2.2 These costs must be **declared as** the amount fixed by Decision C(2013) 8198[112] and indicated in Annex 2 of the GA (currently EUR 71 429 per action).

⚠ Since SME Ph1 grants have a **reimbursement rate** of **70%**, the lump sum that the beneficiaries receive is **EUR 50 000**.

In practice, the declaration of costs for SME Ph1 grants is completely automatized. The coordinator only needs to sign and submit the financial statement (pre-filled by the IT system).

2.3 They must fulfil the following **eligibility conditions**:

- the action tasks must have been carried out as described in Annex 1.

2.4 NO **calculation** is necessary (since it is a fixed global amount).

By signing the financial statement (for multi-beneficiary actions: one common financial statement for the consortium; *see Article 20*), the beneficiaries automatically declare the

[112] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-ph1_en.pdf

amount of EUR 71 429 as the total eligible costs of the action (the amount is fixed and pre-filled by the IT system).

6.2 Ineligible costs

'Ineligible costs' are:

(a) costs that do not comply with the conditions set out above (see Article 6.1) and

(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 and Euratom budget.

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

6.3 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION

7.1 General obligation to properly implement the action

The beneficiary 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 the beneficiary does not properly implement the action (or part of it), the corresponding costs will be ineligible (see Article 6) and will be rejected (see Article 42).

If the beneficiary breaches any other obligation, the grant may be reduced (see Article 43).

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

1. Consequences of improper implementation

Since the SME Ph1 grant consists in a lump sum, 'improper implementation of the action not in accordance with Annex 1' does NOT lead to grant *reduction*, but to the *ineligibility* of the costs (*see Article 6.1*).

If the action is not carried out as described in Annex 1, costs will be **rejected** proportionally to the tasks or parts of the action not implemented *(see Article 42)*.

If the feasibility study is incomplete and thus does not meet the intended objective or is of insufficient quality *(e.g. does not permit to assess the quality and potential of the innovation idea)*, ALL costs will be declared ineligible and there will be NO EU financial contribution

By contrast, in case of other serious breaches the grant may be *reduced (see Article 43)*.

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

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

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

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

- purchase goods, works and services (see Article 10) and
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13).

In these cases, the beneficiary retains sole responsibility towards the Agency for implementing the action.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

The rules of the General MGA on third party involvement are only partly applicable.

Third party involvement in SME Ph1 actions is limited to purchases (Article 10) and subcontracting (Article 13).

⚠ The costs of purchases and subcontracts are **ALL covered** by the lump sum. NO other costs will be reimbursed.

In-kind contributions (Articles 11 and 12 H2020 General MGA) and **linked third parties** (Article 14 H2020 General MGA) are NOT allowed (Since it is a very simple action and moreover targeted at SMEs, the Agency expects the beneficiaries to implement the main part of the work — without relying on third parties).

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

10.1 Rules for purchasing goods, works or services

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

The beneficiary must make such purchases ensuring the best value for money or, if appropriate, the lowest price. In doing so, it must avoid any conflict of interests (see Article 35).

The beneficiary 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 22 and 23 also towards its contractors.

10.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Purchase of goods, works or services

The rules on contracts for the purchase of goods, works or services for SME Ph1 actions are almost identical to the General MGA *(see Article 13 H2020 General MGA)*.

Since SMEs are, by definition, not 'contracting authorities', there is however NO obligation as regards compliance with the EU public procurement Directives 2014/24/EU, 2014/25/EU[113] or 2009/81/EC and the national legislation implementing them.

Moreover, the obligations in Article 10.1 are NOT considered to be additional cost eligibility conditions, but *'other obligations'*. In case of breach, the Commission/Agency may therefore reduce the grant in proportion to the seriousness of the breach (instead of rejecting the costs).

[113] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

13.1 Rules for subcontracting action tasks

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

The beneficiary must award the subcontracts ensuring the best value for money or, if appropriate, the lowest price. In doing so, it must avoid any conflict of interests (see Article 35).

The beneficiary 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 22 and 23 also towards its subcontractors.

The beneficiary must ensure that its obligations under Articles 35, 36, 38 and 46 also apply to the subcontractors.

13.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Subcontracting

The rules on subcontracting for SME Ph1 actions are similar to the General MGA *(see Articles 8 and 13 H2020 General MGA)*.

The SME Ph1 MGA has however the **following specificities**:

Subcontracting is NOT restricted to a limited part of the action.

Moreover, the estimated costs do NOT have to be included in Annex 1 or shown in the table of estimated costs of Annex 2 (since they are covered by the lump sum).

Since SMEs are not contracting authorities, there is also NO obligation as regards compliance with the EU public procurement Directives 2014/24/EU, 2014/25/EU[114] or 2009/81/EC and the national legislation implementing them.

[114] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

Finally, the obligations in Article 13.1 are NOT considered to be additional cost eligibility conditions, but '*other obligations*'. In case of breach, the Agency may therefore reduce the grant in proportion to the seriousness of the breach (instead of rejecting the costs).

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

18.1 Obligation to keep records and other supporting documentation to support the costs declared

The beneficiary must — for a period of three years after the balance is paid — keep adequate **records and other supporting documentation** to prove that the corresponding tasks or part of the action as described in Annex 1 have been implemented properly. The beneficiary does not need to identify the actual eligible costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared as the lump sum.

It must make them available upon request (see Article 17) or in the context of checks, reviews, audits or investigations (see Article 22).

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 22), the beneficiary must keep the records and other supporting documentation until the end of these procedures.

The beneficiary 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 it considers that they offer a comparable level of assurance

18.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, costs insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 42).

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

1. Records and other supporting documentation

For SME Ph1 actions, beneficiaries do not need to keep full records on their actual costs; they only need to keep the evidence (documentation, records) that the action's tasks (as described in Annex 1) were properly carried out.

Examples: *Evidence means documentation that proves that the tasks were carried out. Describing all the tasks relating to the feasibility study is usually enough.*

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit the report

The beneficiary must submit to the Agency (see Article 52) the **final report** set out in this Article. This report includes the request for payment and must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

20.2 Reporting period

The action has one reporting period:

- RP1: from month 1 to month [X]

20.3 Periodic reports — Requests for interim payments

Not applicable

20.4 Final report — Request for payment of the balance

The beneficiary must submit to the Agency (see Article 52) — within 60 days following the end of the reporting period — a final report, which includes the request for payment of the balance.

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

(a) a '**final technical report**' containing a **summary** with:

(i) an overview of the results;

(ii) the conclusions on the action;

(iii) the answers to the '**questionnaire**', covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements.

(b) a '**final financial report**' containing a '**financial statement**' (see Annex 4), which includes the **request for payment of the balance**.

The financial statement must detail the eligible costs (lump sum costs; see Article 6 and Annex 2).

Amounts which are not declared in the financial statement will not be taken into account by the Agency.

The beneficiary must **certify** that:

- the information provided is full, reliable and true;
- the costs declared are eligible (i.e. that the action has been properly implemented; see Article 6);
- the costs (i.e. the proper implementation of the action) can be substantiated by adequate records and supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22).

20.5 Information on cumulative expenditure incurred

Not applicable

20.6 Currency for financial statements

The financial statement must be drafted in euro.

20.7 Language of report

The report (technical and financial final report, including the financial statement) must be submitted in the language of the Agreement.

[…]

1. Report

When & What? At the end of the action, the beneficiary (for multi-beneficiary actions: the coordinator) must submit a final report, containing a:

- final technical report
- final financial report.

2. Reporting period

SME Ph1 actions have only one reporting period (with one pre-financing payment; *see Article 21*).

3. Final financial report: Financial statement

The final financial statement (for multi-beneficiary actions: one common financial statement for the consortium) is automatically pre-filled by the system (with EUR 50 000 as final grant amount and EUR 71 429 as the total eligible costs of the action; *see Article 5*).

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

MONO-BENEFICIARY: ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

The following payments will be made to the beneficiary:

- one **pre-financing payment**;
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20).

21.2 Pre-financing payment — Amount — Amount retained for the Guarantee Fund

The aim of the pre-financing is to provide the beneficiary 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)].

The Agency will — except if Article 48 applies — make the pre-financing payment to the beneficiary within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest.

An amount of EUR [**insert amount** (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the Agency from the pre-financing payment and transferred into the '**Guarantee Fund**'

21.3 Interim payments — Amount — Calculation

Not applicable

21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

The payment of the balance reimburses the remaining part of the eligible costs incurred by the beneficiary 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 44).

If the total amount of earlier payments is lower than the final grant amount, the Agency will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 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 already made, from the final grant amount determined in accordance with Article 5.3:

{final grant amount (see Article 5.3)

minus

pre-financing made}.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the beneficiary together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
  - is positive, it will be paid to the beneficiary
  - is negative, it will be recovered.

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 the beneficiary, in the estimated budget (see Annex 2).

21.5 Notification of amounts due

The Agency will formally notify to the beneficiary the amount due and 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 43 and 44.

[…]

MULTI-BENEFICIARY: ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

[…]

21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

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 44).

If the total amount of earlier payments is lower than the final grant amount, the Agency will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 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 already made, from the final grant amount determined in accordance with Article 5.3:

{final grant amount (see Article 5.3)

minus

pre-financing made**}**.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the coordinator together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
  - is positive, it will be paid to the coordinator
  - is negative, it will be recovered from the coordinator.

The amount to be paid may however be offset — without the coordinator's consent — against any other amount owed by the coordinator to the Agency, *the* Commission or an*[other]* executive agency (under the EU or Euratom budget), up to the maximum grant amount set out in Article 5.1.

[…]

1. Payments to be made — No interim payments

SME Ph1 actions have only one reporting period *(see Article 20.2)*, with one pre-financing payment.

There are NO interim payments.

The balance is paid when the action ends.

2. Amount of pre-financing payment

How much? The pre-financing payment for SME Ph1 actions is up to 50% of the maximum grant amount (i.e. up to EUR 25 000).

3. Amount of the payment of the balance

The amount of the payment of the balance depends on the overall financial situation of the action, after calculation of the final grant amount *(see Article 5.3)*.

ARTICLE 36 — CONFIDENTIALITY

ARTICLE 36 — CONFIDENTIALITY

36.1 General obligation to maintain confidentiality

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 Agency may disclose confidential information also to its staff, other EU institutions and bodies.

The confidentiality obligations no longer apply if:

(a) the disclosing party agrees to release the other party;

(b) the information was already known by the recipient or is given to him without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;

(c) the recipient proves that the information was developed without the use of confidential information;

(d) the information becomes generally and publicly available, without breaching any confidentiality obligation, or

(e) the disclosure of the information is required by EU or national law.

36.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Confidential information

The SME Ph1 MGA foresees lighter provisions on confidentiality than the General MGA.

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING

38.1 Obligation to promote the action and its results — Information on EU funding — Obligation and right to use the EU emblem — Disclaimer excluding Agency and Commission responsibility — Agency and the Commission right to use materials, documents or information

The beneficiary must promote the action and its results.

Any communication activity related to the action must:

(c) display the EU emblem and

(d) include the following text:

"This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No [number]".

Any communication activity related to the action must indicate that it reflects only the author's view and that the Agency and the Commission are not responsible for any use that may be made of the information it contains.

The Agency and the Commission may use, for its own communication and publicising activities, 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 received from the beneficiary (including in electronic form).

The right to use the beneficiary's materials, documents and information includes:

(a) **use for its own purposes** (in particular, making them available to persons working for the Agency, the Commission 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 (EC) No 1049/2001, 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 exploitation set out in points (b),(c),(d) and (f) to third parties if needed for the communication and publicising activities of the Agency or the Commission.

38.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Communication activities (beneficiaries) — Promoting the action — Visibility of EU funding

The SME Ph1 MGA foresees lighter requirements for promoting the action and acknowledging EU funding.

ARTICLE 41 —BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

MONO-BENEFICIARY: ARTICLE 41 —BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

41.1 Role and responsibility towards the Agency

The beneficiary has full responsibility for implementing the action and complying with the Agreement.

The beneficiary is itself responsible for:

(a) monitoring that the action is implemented properly (see Article 7);

(b) informing the Agency immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(c) submiting the deliverables and the report to the Agency (see Articles 19 and 20);

(d) submiting to the Agency in good time any documents or information required by it

and may not delegate or subcontract these tasks to any third party.

41.2 Internal division of roles and responsibilities

Not applicable

[…]

MULTI-BENEFICIARY: ARTICLE 41 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

41.1 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 44, 45 and 46.

41.2 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 Participant Portal Beneficiary Register (via the electronic exchange system) up to date (see Article 17);

(ii) inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(iii) submit to the coordinator in good time:

- the data needed to draw up the technical report (see Article 20);
- ethics committee opinions and notifications or authorisations for activities raising ethical issues (see Article 34);
- 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 17), unless the Agreement specifies otherwise;

(iii) request and review any documents or information required by the Agency and verify their completeness and correctness before passing them on to the Agency;

(iv) submit the deliverables and the report to the Agency (see Articles 19 and 20);

(v) ensure that all payments are made to the other beneficiaries without unjustified delay (see Article 21);

(vi) inform the Agency of the amounts paid to each beneficiary, when required under the Agreement (see Articles 44 and 50) or requested by the Agency.

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

[OPTION to be used when the coordinator is a secondary or higher education establishment or public body and there is an 'authorisation to administer' given to a third party created, controlled or affiliated to the coordinator: *As an exception, the coordinator delegates the tasks set out in Point 2(b)(v) and (vi) above to [insert name of third party with an authorisation to administer]. The coordinator retains sole responsibility for the EU contribution and for compliance with the obligations under the Agreement.****]***

[…]

1. Division of roles and responsibilities — Responsibilities towards the Agency

The rules on internal division of roles and responsibilities are similar to the General MGA *(see Article 41 H2020 General MGA)*.

Since for SME Ph1 multi-beneficiary actions there is however only one (common) financial statement *(see Article 20)*, there is NO obligation for the beneficiaries to submit their own individual financial statements to the coordinator.

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

42.1 Conditions

The Agency will —**at the payment of the balance** or **afterwards** — reject any costs which are ineligible (i.e. if the action as described in Annex 1 is not properly implemented; see Article 6), in particular following checks, reviews, audits or investigations (see Article 22).

The rejection may also be based on the **extension of findings from other grants to this grant** (see Article 22.5.2).

42.2 Ineligible costs to be rejected — Calculation — Procedure

Ineligible costs will be rejected proportionally to the tasks or parts of the action not implemented.

If the rejection of costs does not lead to a **recovery** (see Article 44), the Agency will formally notify the beneficiary of the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 21.5). The beneficiary may — within 30 days of receiving notification — formally notify the Agency of its disagreement and the reasons why.

If the rejection of costs leads to a **recovery**, the Agency will follow the contradictory procedure with '**pre-information letter**' set out in Article 44.

42.3 Effects

If the Agency rejects costs at the **payment of the balance**, it will deduct them from the total eligible costs declared, for the action, in the financial statement (see Article 20.4). It will then calculate the payment of the balance as set out in Article 21.4.

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

1. Rejection of ineligible costs

The rules on rejection of ineligible costs are in principle the same as in the General MGA *(see Article 42 H2020 General MGA)*.

However, since SME Ph1 grants consist in a lump sum, the main cost eligibility condition refers to 'proper implementation of the action in accordance with Annex 1' *(see Article 6.1)*. Improper implementation therefore leads to the *ineligibility* of the costs (NOT grant *reduction*; *see also Article 7*). If the action is not carried out as described in Annex 1, the costs will be considered ineligible and rejected proportionally to the tasks or parts of the action not implemented.

⚠ Cost rejections will be made for **improper implementation** of the action (*see Article 7*).

If the feasibility study is incomplete and thus does not meet the intended objective or is of insufficient quality *(e.g. does not permit to assess the quality and potential of the innovation idea)*, ALL costs will be declared ineligible and there will be NO EU financial contribution.

ARTICLE 43 — REDUCTION OF THE GRANT

ARTICLE 43 — REDUCTION OF THE GRANT

43.1 Conditions

The Agency may — **at the payment of the balance** or **afterwards** — reduce the maximum grant amount (see Article 5.1), if:

(a) the beneficiary (or natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including submission of false information, failure to provide required information, breach of ethical principles) or

(b) the beneficiary (or a natural person who has the power to represent or take decision on its behalf) 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 22.5.2).

Improper implementation of the action as described in Annex 1 will not lead to a reduction of the grant but to a rejection of costs (see Article 42).

43.2 Amount to be reduced — Calculation — Procedure

The amount of the reduction will be proportionate to the seriousness of the errors, irregularities or fraud or breach of obligations.

Before reduction of the grant, the Agency will formally notify a '**pre-information letter**' to the beneficiary:

- 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 21).

1. Reduction of the grant

The rules on rejection of ineligible costs are in principle the same as in the General MGA *(see Article 42 H2020 General MGA)*.

However, since SME Ph1 grants consist in a lump sum, 'proper implementation of the action in accordance with Annex 1' is an *eligibility* rule and does NOT lead to the *reduction* of the grant *(see also Articles 6.1 and 7)*. The grant may thus be reduced only in case of other serious breaches of obligations or substantial errors, irregularities or fraud*; see Article 43 H2020 General MGA).*

⚠ **Grant reductions** will be made for **substantial errors, irregularities or fraud** and **serious breaches of obligation other than proper implementation**

ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

MONO-BENEFICIARY: ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

44.1 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.

44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the Agency will formally notify a '**pre-information letter**' to the beneficiary:

- informing it of its intention to recover, the amount due as the balance and the reasons why;
- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund; 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 recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the beneficiary a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. 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 beneficiary's consent — against any amounts owed to the beneficiary by the Agency, the Commission or another executive agency (from the EU or Euratom budget).

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

(b) by **drawing on the Guarantee Fund.** The Agency or the Commission will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:

(i) not applicable;

(ii) by **taking legal action** (see Article 57) 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 21.11, 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

44.1.3 Recovery of amounts after payment of the balance

If, the revised final grant amount (see Article 5.4) is lower than the final grant amount, the beneficiary must repay the difference to the Agency.

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

- informing it of its intention to recover, the due amount 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 beneficiary 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 beneficiary's consent — against any amounts owed to the beneficiary by the Agency, the Commission or another executive agency (from the EU or Euratom budget).

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

(b) by **drawing on the Guarantee Fund.** The Agency or the Commission will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:

(i) not applicable;

(ii) by **taking legal action** (see Article 57) 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 21.11, 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.

MULTI-BENEFICIARY: ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

44.1 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.

44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), 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;
- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund 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 recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the coordinator a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. This note will also specify the terms and the date for payment.

If the coordinator does not repay the Agency by the date 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, the 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) by **drawing on the Guarantee Fund.** The Agency or the Commission will formally notify the coordinator the debit note on behalf of the Guarantee Fund and recover the amount:

(i) not applicable;

(ii) by **taking legal action** (see Article 57) 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 21.11, 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 coordinator, unless Directive 2007/64/EC applies.

44.1.3 Recovery of amounts after payment of the balance

If the revised final grant amount (see Article 5.4) is lower than the final grant amount, the coordinator must repay the difference to the Agency.

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

- informing it of its intention to recover, the due amount 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 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 will **recover** the amount:

(a) by **offsetting** it — without the coordinator's consent — against any amounts owed to the coordinator by the Agency, the 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) by **drawing on the Guarantee Fund.** The Agency or the Commission will formally notify the coordinator the debit note on behalf of the Guarantee Fund and recover the amount:

(i) not applicable;

(ii) by **taking legal action** (see Article 57) 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 21.11, 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 coordinator, unless Directive 2007/64/EC applies.

1. Recovery of undue amounts

The rules on recovery of undue amounts are in principle the same as in the General MGA *(see Article 44 H2020 General MGA)*.

The SME Ph1 multi-beneficiary MGA has, however, the **following specificities**:

Since the coordinator alone is financially responsible (for the entire grant), the Agency will recover ONLY from it.

Best practice: Beneficiaries should foresee internal arrangements to redistribute the financial responsibility internally in the consortium in a fair way.

There is therefore also NO need for a 'report on the distribution of payments'.

ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

MONO-BENEFICIARY: ARTICLE 50 — TERMINATION OF THE AGREEMENT

50.1 Termination of the Agreement, by the beneficiary

50.1.1 Conditions and procedure

The beneficiary may terminate the Agreement.

The beneficiary must formally notify termination to the Agency (see Article 52), 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.

50.1.2 Effects

The beneficiary must submit — within 60 days from when termination takes effect — the final report (see Article 20).

If the Agency does not receive the report within the deadline (see above), no costs will be reimbursed.

The Agency will **calculate the final grant amount** (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

In case of **improper termination**, the grant will be reduced by 100% (see Article 43).

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

Not applicable

50.3 Termination of the Agreement, by the Agency

50.3.1 Conditions

The Agency may terminate the Agreement if:

(a) not applicable;

(b) a change to the beneficiary's legal, financial, technical, organisational or ownership situation is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant;

(c) not applicable;

(d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the beneficiary (see Article 49.1) 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) the 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) the 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) the beneficiary does not comply with the applicable national law on taxes and social security;

(h) the action has lost scientific or technological relevance;

(i) not applicable;

(j) not applicable;

(k) the 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;

(l) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(m) the beneficiary (or the natural person who has the power to represent or take decisions on its behalf) 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 22.5.2);

(n) not applicable.

50.3.2 Procedure

Before terminating the Agreement, the Agency will formally notify the beneficiary:

- 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 (l.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 beneficiary **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), (e), (g), (h), and (l.ii) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (d), (f), (k), (l.i) and (m) above: on the day after the notification of the confirmation is received by the beneficiary.

50.3.3 Effects

The beneficiary must — within 60 days from when termination takes effect — submit the final report (see Article 20).

If the Agency does not receive the report within the deadline (see above), no costs will be reimbursed.

The Agency will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

This does not affect the Agency's right to reduce the grant (see Article 43) or to impose administrative and financial sanctions (Article 45).

The beneficiary may not claim damages due to termination by the Agency (see Article 46).

MULTI-BENEFICIARY: ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

50.1 Termination of the Agreement, by the beneficiaries

50.1.1 Conditions and procedure

The beneficiaries may terminate the Agreement.

The coordinator must formally notify termination to the Agency (see Article 52), 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.

50.1.2 Effects

The coordinator must submit — within 60 days from when termination takes effect — the final report (see Article 20).

If the Agency does not receive the report within the deadline (see above), no costs will be reimbursed.

The Agency will **calculate the final grant amount** (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

In case of **improper termination**, the grant will be reduced by 100% (see Article 43).

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

50.2.1 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 52) 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 55), with a proposal for reallocation of the tasks (see Annex 1) and, if necessary, the addition of one or more new beneficiaries (see Article 56). 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.

50.2.2 Effects

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 50.3.1(c).

If the request for amendment is accepted by the Agency, the Agreement is **amended** to introduce the necessary changes (see Article 55).

Improper termination may lead to a reduction of the grant (see Article 43) or termination of the Agreement (see Article 50).

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, 36, 38, 40, 42, 43 and 44) continue to apply.

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

50.3.1 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 56);

(b) a change to their legal, financial, technical, organisational or ownership situation *[(or those of its linked third parties)]* 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 55);

(d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the coordinator (see Article 49.1) 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) the action has lost scientific or technological relevance;

(i) not applicable;

(j) not applicable;

(k) 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;

(l) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(m) a beneficiary (or the natural person who has the power to represent or take decisions on its behalf) 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 22.5.2);

(n) not applicable.

50.3.2 Procedure

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

- 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 (l.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 or beneficiary concerned **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), (h), and (l.ii) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (k), (l.i) and (m) above: on the day after the notification of the confirmation is received.

50.3.3 Effects

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

The coordinator must — within 60 days from when termination takes effect —, submit the final report (see Article 20).

If the Agency does not receive the report within the deadline (see above), no costs will be reimbursed

The Agency will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

This does not affect the Agency's right to reduce the grant (see Article 43) or to impose administrative sanctions (Article 53).

The beneficiaries may not claim damages due to termination by the Agency (see Article 46).
After termination, the beneficiaries' obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) 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 a request for amendment (see Article 55), with a proposal for reallocation of the tasks (see Annex 1) and, if necessary, the addition of one or more new beneficiaries (see Article 56). 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.

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 50.3.1(c).

If the request for amendment is accepted by the Agency, the Agreement is **amended** to introduce the necessary changes (see Article 56).

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, 36, 38, 40, 42, 43 and 44) continue to apply.

1. GA termination (beneficiaries)

The rules on GA termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, for SME Ph1 actions, improper termination by the beneficiaries will lead to a **100% reduction** of the grant.

2. Partner termination (beneficiaries)

The rules on partner termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, the SME Ph1 multi-beneficiary MGA has the **following specificities**:

The notification must include a reallocation of the tasks (Annex 1), but NO reallocation of the estimated budget of the beneficiary concerned.

Moreover, if the GA continues (i.e. it is amended), the termination of the beneficiary will NOT have any effect on the estimated budget (since there is a lump sum for the entire action, i.e. the consortium together).

3. GA or beneficiary termination (Agency)

The rules on GA and beneficiary termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, the SME Ph1 multi-beneficiary MGA has the **following specificities**:

The request for amendment (which the coordinator must send 60 days after termination) must include a reallocation of the tasks (Annex 1), but NO reallocation of the estimated budget of the beneficiary concerned.

If the GA continues (i.e. it is amended), the termination of the beneficiary will NOT have any effect on the estimated budget (since there is a lump sum for the entire action, i.e. the consortium as a whole).

IV.3 H2020 MGA SME Ph2: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

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.

1. SME Ph2 actions

What? SME Ph2 funds:

- the implementation of an innovation idea (including, prototyping, testing, demonstrating, piloting, large-scale product validation and market replication) — based on a strategic business plan either developed through phase 1 or another means.

The innovation idea must have commercial potential and considerable novelty for its sector (i.e. for technological innovation ideas: 'technology readiness level' of 6 or above; *see General Annex G to the Main Work Programme*).

The implementation of Phase 2 must focus on innovation activities *(e.g. demonstration, testing, prototyping, piloting, scaling-up, miniaturisation, design, market replication)* but may also include some research.

A project may be funded in Phase 2 even if it was not funded in Phase 1.

SME actions are normally mono-beneficiary actions, but can also be multi-beneficiary.

SME actions are funded under Part II of Horizon 2020, 'Innovation in SMEs' (*e.g. H2020-SMEINST-05-2016-2017)*.

For more information on SME Instrument Ph2 actions, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the General Annexes to the Main Work Programme and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*).

[…]

1. Budget categories

The SME Ph2 MGA uses the same budget categories as the General MGA.

Budget categories of the SME Ph2 MGA:

- direct personnel costs
  - costs for employees (or equivalent)
  - costs for natural persons working under a direct contract
  - costs of personnel seconded by a third party against payment
  - costs for SME owners without salary
  - costs for beneficiaries that are natural persons without salary
- direct costs of subcontracting
- other direct costs
  - travel costs and related subsistence allowances
  - equipment costs
  - costs of other goods and services
  - capitalised and operating costs of large research infrastructure
- indirect costs
- specific cost categories (if option applies).

Thus, the SME Ph2 MGA does NOT have:

– personnel costs for providing trans-national access to research infrastructure

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

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

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

[…]

5.2 Form of grant, reimbursement rates and forms of costs

The grant reimburses **70%** 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**'):

(a) for **direct personnel costs**:

- as actually incurred costs ('**actual costs**') or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

Personnel **costs for SME owners** or **if the beneficiary is a natural person** not receiving a salary (see Article 6.2, points A.4 and A.5) must be declared on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(b) for **direct costs of subcontracting**: as actually incurred costs (**actual costs**);

(c) for **direct costs of providing financial support to third parties**: not applicable*;*

(d) for **other direct costs**:

- for costs of internally invoiced goods and services: on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices (**unit costs**);
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **indirect costs**: on the basis of a flat-rate applied as set out in Article 6.2, Point E ('**flat-rate costs**')*;*

(f) for **specific costs category(ies)**: not applicable.

1. Reimbursement rate

How much? For SME Ph2 actions, the reimbursement rate is normally set at 70 % *(see General Annex D to the Main Work Programme)*.

If provided for in the work programme/call, an SME Ph2 action may exceptionally be funded at 100%, with a GA based on the General MGA (instead of the SME Ph2 MGA).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

[…]

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. not applicable;
D. other direct costs;
E. indirect costs;
F. not applicable.

'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 E below).

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

1. Eligible costs — Ineligible costs

The SME Ph2 MGA uses the **same budget categories** (covering the same **types of costs**) as the General MGA and the same **eligibility conditions** and **calculation rules** apply *(see Article 6 H2020 General MGA)*.

However, since SMEs are by definition NO non-profit legal entities, they can NOT declare additional remuneration (under budget category A 'personnel costs'; *see Article 6.2.A.1 H2020 General MGA*).

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION – THIRD PARTIES INVOLVED IN THE ACTION

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For SME Ph2 actions, the same rules on third party involvement apply as in the General MGA *(see Article 8 H2020 General MGA)*.

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

13.1 Rules for subcontracting action tasks

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

The beneficiary must award the subcontracts ensuring the best value for money or, if appropriate, the lowest price. In doing so, it must avoid any conflict of interests (see Article 35).

***[OPTION:** In addition, if the value of the subcontract to be awarded exceeds EUR [...], the beneficiaries must comply with the following rules [...][11].]*

***[OPTION for actions involving PCP or PPI:** In addition, for the pre-commercial procurement (PCP) or procurement of innovative solutions (PPI), the beneficiary must follow a transparent and non-discriminatory procedure, including at least the following:*

*(a) an '**open market consultation**' published in the Official Journal of the European Union via a '**prior information notice (PIN)**' and promoted and advertised widely;*

*(b) a '**contract notice**' allowing for a time-limit for receipt of tenders of at least 2 months, published in the Official Journal of the European Union and promoted and advertised widely;*

*(c) a '**request for tenders**' based on functional or performance-based specifications (that take into account the outcome of the open market consultation) and describing the practical set-up for the implementation of the subcontract(s);*

*(d) an objective and non-discriminatory **evaluation** of the tenders and **award** of subcontract(s);*

*(e) a '**contract award notice**' published in the Official Journal of the European Union.*

The beneficiary must also ensure that every prior information notice, contract notice or contract award notice published in relation to the subcontracting includes the following disclaimer:

*"This procurement receives funding under the European Union's Horizon 2020 research and innovation programme under the grant agreement No [number]). The EU is however not participating as a contracting authority in this procurement." **]***

***[OPTION 1 only for actions involving PPI:** Participation in PPI tendering procedures must be open on equal terms to tenderers from EU Member States, associated countries[12] and other countries with which the EU has an agreement in the field of public procurement. If the WTO Government Procurement Agreement applies, PPI subcontracts must also be open to tenderers from States that have ratified this agreement.*

*If the procurement of the innovative solution (PPI) consists (and is limited to) buying a set of prototypes and/or test products that were developed during a preceding PCP action, the beneficiary does not need to make an open market consultation, contract notice and contract award notice under Points (a), (b) and (e) above. In this case, it must make a **request for tenders** from at least **three providers** (including the providers that participated in the preceding PCP), in accordance with the negotiated procedure without publication under Directives 2004/18/EC (or 2014/24/EU) and 2004/17/EC (or 2014/25/EU)[24].**]***

***[OPTION 2 only for actions involving PCP:** Subcontracts for pre-commercial procurement must provide for the following:*

- *the ownership, by the subcontractors, of the intellectual property rights on the results that they generate;*
- *the right of the buyer to access results as well as the background necessary to use the results — on a royalty-free basis — for its own use;*

- *the right of the buyer to grant (or to require the subcontractors to grant) non-exclusive licences to third parties to exploit the results — under fair and reasonable conditions — (without the right to sub-licence);*

- *the obligation of the subcontractors to transfer to the buyer the ownership of intellectual property generated by subcontractors during the PCP, if subcontractors fail to commercially exploit the results within the period set out in the subcontract;*

- *the right of the buyer to publish — at the time of the contract award notice — the identity of the winning tenderers and a project summary provided by the winning tenderers, and to publish — after R&D has finished and after consulting the subcontractors — summaries of the results as well as the identities of the subcontractors that successfully completed the last phase of the PCP.*

The beneficiary must ensure that the majority of the research and development work done by the subcontractor(s) (including the work of the main researchers) is located in the EU Member States or associated countries ('place of performance obligation').]

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 must be set out in Annex 2. The Agency may however approve subcontracts not set out in Annex 1 and 2 without amendment according to Article 55, 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.

[OPTION for classified information: *Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the* Agency *(see Article 37).]*

The beneficiary 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 Article 22 and 23 also towards its subcontractors.

13.1.2 The beneficiary must ensure that its obligations under Articles 35, 36 38 and 46 also apply to the subcontractors.

13.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under Article 13.1.1, the costs related to the subcontract concerned will be ineligible (see Article 6) and will be rejected (see Article 42).

If the beneficiary breaches any of its obligations under Article 13.1.2, the grant may be reduced (see Article 43).

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

[11] If the authorising officer decides to set specific rules, they should have due regard for the principle of proportionality, taking into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk. Specific rules must be based on the rules contained in the Financial Regulation. Simply citing the FR without specifying the applicable provisions should be avoided. Specific rules may only be set for the award of contracts of a value higher than EUR 60 000. The authorising officer may set a threshold higher than EUR 60 000 on the basis of a risk assessment.

[12] For the definition, see Article 2.1(3) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.12.2013 p.81): '**associated country**' means a third country which is party to an international agreement with the Union, as identified in Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013. Article 7 of the Horizon 2020 Framework Programme Regulation No 1291/2013 sets out the conditions for association of non-EU countries to Horizon 2020.

[13] See Articles 28 and 31(2)(a) of Directive 2004/18 replaced by Articles 26 and 32(3)(a) of Directive 2014/24/EU and Article 40(3)(b) of Directive 2004/17/EC replaced by Article 50(b) of Directive 2014/25/EU.

1. Subcontracting

The rules on subcontracting for SME Ph2 actions are similar to those of the General MGA *(see Articles 8 and 13 H2020 General MGA)*.

The SME Ph2 MGA has however the **following specificities**:

Subcontracting is NOT restricted to a limited part of the action.

Moreover, the Agency will assess compliance with best value for money during the *evaluation* of the proposal (and therefore be able to give higher security on subcontracts that are part of the proposal).

Assurance can only be given on subcontracts that are described in sufficient detail in the proposal.

For already awarded subcontracts: action task(s) that are subcontracted; key information on the award procedure; name of subcontractor, price and object; explanation why the subcontractor and the price are appropriate.

For future subcontracts: action task(s) to be subcontracted; estimated budget; procedure that will be followed to ensure best value for money.

Annex 1 will explicitly identify the subcontracts for which assurance is given by the Agency. (For these subcontracts, beneficiaries have assurance that compliance with best value for money will not be challenged in audits — unless it turns out that the beneficiary did not follow the procedure described or concealed information for the purpose of the approval).

Change to a subcontract — Subcontracts which were assessed during proposal evaluation (and for which assurance was granted) may be changed (via an amendment).

Best practice: Beneficiaries should contact the Agency (via the Participant Portal messaging function), if they intend to amend the grant to change a subcontract assessed during proposal evaluation.

The amendment request will not be agreed, if it would result in changes that — if known before awarding the grant — would have had an impact on the award decision *(see Article 55)*.

Example (acceptable): *the subcontractor went bankrupt*

Examples (not acceptable): *the action tasks subcontracted changed; increase of price of already awarded subcontracts.*

The Agency will examine the change to evaluate its impact on best value for money — and will either:

- grant assurance, on the basis of the justifications provided (similar to those used at the proposal stage)

OR

- refuse it (if it considers that the subcontract is not best value for money or if it cannot be assessed due to a lack of information).

⚠ Changes to a subcontract may only be done if the assurance on best value for money is granted by the Agency.

New subcontracts — New subcontracts (i.e. not already part of the proposal/Annex1), will be assessed by the Agency for best value for money during the amendment procedure.

⚠ If subcontracts are added not via a formal amendment but via the 'simplified approval procedure: there is' NO assessment (and the beneficiary therefore bears the **full risk**).

Finally, for SME Ph2 actions, subcontracts must provide for the right of the beneficiaries to commercially exploit the results generated by subcontractors during the subcontract implementation (by way of transfer of the intellectual property rights, licence or other; *see Article 26.3*).

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The beneficiary must submit to the Agency (see Article 52) 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 52).

20.2 Reporting periods

The action is divided into the following '**reporting periods**':

- RP1: from month 1 to month [X]
- ***[****- 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].****]***

[…]

1. Reporting periods

The reporting periods for SME Ph2 actions are normally the same as for the General MGA *(see Article 20.2 H2020 General MGA)*.

The reporting periods may however be adapted to reflect the action duration. Thus, if considered necessary, SME Ph2 actions may include shorter and more frequent reporting periods.

ARTICLE 26 — OWNERSHIP OF RESULTS

ARTICLE 26 — OWNERSHIP OF RESULTS

[…]

26.3 Rights of third parties (including personnel)

If third parties (including personnel) may claim rights to the results, the beneficiary must ensure that it complies with its obligations under the Agreement.

If a third party generates results for a beneficiary, the beneficiary must obtain all necessary rights (transfer, licences or other) from the third party, in order to be able to respect its obligations as if those results were generated by the beneficiary itself and ensure its possibility to commercially exploit the results ('**freedom to operate**').

For this purpose, it must:

- in agreements with employees or third parties involved in the action (such as, for instance, subcontractors): retain the right to commercially exploit the results (at least for the forms of exploitation set out in the 'commercialisation plan'; see Annex 1), if necessary by agreeing to a licence and

- in all other cases: take measures to obtain, from the third parties, licences for the exploitation.

If obtaining the rights is impossible, the beneficiary must refrain from using third parties to generate the results.

[…]

1. Third parties with rights on results — Freedom to operate

'Freedom to operate' means being able to fully commercially exploit the action's results.

The beneficiaries must safeguard their freedom to operate in all agreements with employees and third parties involved in the action *(see Article 8 H2020 General MGA)*.

> ***Example:*** *in their agreements with subcontractors, beneficiaries must ensure their right to commercially exploit the results of work subcontracted, even if this involves using the subcontractor's IPR background.*

In addition, they may have to obtain licenses to commercially exploit the results from other third parties (i.e. third parties that are not participating in the action implementation).

> ***Example***: *if a third party that is not involved in the action owns IPRs that may stand in the way of commercially exploiting the results, the beneficiary must obtain the license for commercial exploitation.*

V. ERA-NET Cofund MGA

V.1 Background information and approach

The ERA-NET Cofund Model Grant Agreement is used for H2020 ERA-NET Cofund actions only.

The ERA-NET Cofund MGA follows the H2020 General MGA for numbering and content, except for:

The H2020 MGA ERA-NET Cofund deviates from the General MGA as follows:

- Article 3 (duration of ERA-NET Cofund actions: 60 months)
- Article 5.2 (ERA-NET Cofund specific reimbursement rate and forms of costs)
- Article 6.2 (ERA-NET Cofund specific conditions for eligibility of costs)
- Articles 8, 10, 11, 12, 13 (reference to 'transnational projects' instead of 'action')
- Article 15 (provisions for support to or implementation of trans-national projects for the co-funded call)
- Article 16 (provision on access to research infrastructures not applicable)
- Article 19 (ERA-NET Cofund specific deliverables)
- Article 20.1 – 20.5 (ERA-NET Cofund specific reporting provisions)
- Article 21.1 – 21.3, 21.5 (ERA-NET Cofund specific payment provisions)

- Annex 2 Model for the estimated budget for the action
- Annex 4 Model for the financial statement
- Annex 7 Model for the commitment on availability of funds
- Annex 8 Model for the statement on the use of the previous pre-financing instalment

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Articles 10-13, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for ERA-NET Cofund actions are added:

- Article 2 (ERA-NET Cofund actions)
- Article 4.1 (ERA-NET Cofund budget categories)
- Article 8 (ERA-NET Cofund rules on third party involvement).

V.2 H2020 MGA ERA-NET Cofund: Annotations

GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

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

on the one part,

***[OPTION 1**: the **European Union** ('the EU', represented by the European Commission ('the Commission')[3],]*

***[OPTION 2:** the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('the Commission')[4],]*

***[OPTION 3:** the [**Research Executive Agency (REA)**] [**European Research Council Executive Agency (ERCEA)**] [**Innovation and Networks Executive Agency (INEA)**] [**Executive Agency for Small and Medium-sized Enterprises (EASME)**] ('the Agency'), under the powers delegated by the European Commission ('the Commission')[5],]*

represented for the purposes of signature of this Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname],[6]

and

on the other part,

1. 'the **coordinator**':

[**full official name (short name)**], [established in [official address in full], *[**OPTION for beneficiaries with VAT:** VAT number [insert number]], **[OPTION for coordinators not receiving EU funding:** as 'beneficiary not receiving EU funding' (see Article 9),]* 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 56):

2. [**full official name (short name)**], established in [official address in full], *[**OPTION for beneficiaries with VAT:** VAT number [insert number]],*

***[OPTION for beneficiaries not receiving EU funding:** X. [**full official name (short name)**], established in [official address in full] [**OPTION for beneficiaries with VAT:** VAT number [insert number]], as 'beneficiary not receiving EU funding' (see Article 9),]*

[same for each beneficiary]

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

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 it, 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
	2a Additional information on the estimated budget
Annex 3	Accession Forms
	[OPTION to be used if Article 14 applies and if joint and several liability has been requested by the [Commission][Agency]: *3a Declaration on joint and several liability of linked third parties****]***
	[OPTION if the JRC participates: *3b Administrative Arrangement****]***
Annex 4	Model for the financial statements
Annex 5	Model for the certificate on the financial statements
Annex 6	Model for the certificate on the methodology
Annex 7	Model for the commitment on availability of funds
Annex 8	Model for the statement on the use of the previous pre-financing payment

[3] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[5] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[6] The person representing the 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*'.

1. Participants: Coordinator — Beneficiaries — Linked third parties — Third parties involved in the action

ERA-NET Cofund uses in principle the same concepts for participants as the General MGA (i.e. coordinator, beneficiaries, linked third parties, etc).

However, all entities participating financially to the joint call for proposals MUST participate as beneficiaries or linked third parties in the GA (NOT as other third parties involved in the action; *see Article 8*).

Linked third parties — Linked third parties are allowed to *fully* participate in the action, like beneficiaries. They will therefore be treated for many issues (including cost eligibility; see *Article 6.3 H2020 General MGA*) like beneficiaries.

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]

ARTICLE 2 — ACTION TO BE IMPLEMENTED *[— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]*

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

[OPTION for complementary grants if foreseen in the work programme: *The grant is a '**complementary grant**' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- *[insert number] [insert acronym]*
- *[insert number] [insert acronym]].**]***

[OPTION for joint actions (joint call with a third country or an international organisation)**: The action is a '**jointly funded action**' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.**]

1. ERA-NET Cofund actions

What? ERA-NET Cofund funds:

- a joint call for proposals for trans-national projects (and additional joint activities) by regional/national research and innovation programmes (— implemented or funded by the beneficiaries).

  'Funded by the beneficiaries' means funded by providing financial support to third parties. This is normally the case if the beneficiaries are research funders and cash contributions are received from national programmes. In this case, the beneficiaries launch a call for proposals, resulting in grants for third parties. Most ERA-NET Cofund actions are implemented in this way.

  'Implemented by the beneficiaries' means that the beneficiaries implement the trans-national projects themselves. This is normally the case for governmental research organisations implementing a research programme based on institutional funding (i.e. not project-based funding). In this case, the co-funded call for proposals is based on in-kind contributions from their institutional funding and the beneficiaries then carry out the selected trans-national projects themselves, either fully or partially.

  Only one funded call per GA.

and

- optional: additional activities related to the coordination of national/regional research and innovation programmes.

  The additional activities must relate to the coordination of public research and innovation programmes and should focus on preparing and implementing joint activities (including other joint calls without EU co-funding; *see General Annex D to the Main Work Programme*).

  These activities must be *in addition* to implementing a joint call.

If the additional activities consist in additional calls without top-up funding from the EU, the requirements set out in Article 15 do NOT apply.

Normally, ERA-NET Cofund grants are multi-beneficiary grants; exceptionally they can be *mono*-beneficiary grants for sole participants *(see General Annex D to the Main Work Programme)*.

ERA-NET Cofund actions are funded in all Parts of Horizon 2020 *(e.g. FETPROACT-02-2017; SC5-33-2017)*.

For more information on ERA-NET Cofund actions*, see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the General Annexes to the Main Work Programme and the call and topics pages of the call.*

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The **duration of the action** will be **60 months** as of *[**OPTION 1 by default:** the first day of the month following the date the Agreement enters into force (see Article 58)] [**OPTION 2 if needed for the action**: [insert date]]*[7] ('starting date of the action').

[7] 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 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).

1. Action duration

For ERA-NET Cofund actions, the action duration is usually **60 months**. (This relatively long time is needed because these actions include call preparation, launch of the call, proposal submission and evaluation, the selection decision, and implementation of the selected transnational projects — which typically takes 36 months.)

If implementation of the action is justifiably delayed, the consortium may request an extension (i.e. request an amendment extending the action duration; *see Article 55*). Normally, the duration can NOT however exceed 72 months.

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*). ***[OPTION to be used if Article 9 or 14a applies:*** *It also shows the estimated costs of the beneficiaries not receiving EU funding (see Article 9)[and][international partners (see Article 14a)].]*

[…]

1. Budget categories

The ERA-NET Cofund MGA uses its own budget categories.

Budget categories of the ERA-NET Cofund MGA:

- direct costs related to trans-national projects
  - direct costs of providing financial support to third parties implementing trans-national projects
  - direct costs for the implementation of trans-national projects by the beneficiaries:
    - direct personnel costs for the implementation of trans-national projects by the beneficiaries
      - costs for employees (or equivalent)
      - costs for natural persons working under a direct contract
      - costs of personnel seconded by a third party against payment
    - direct costs of subcontracting for the implementation of trans-national projects by the beneficiaries
    - other direct costs for the implementation of trans-national projects by the beneficiaries
      - travel costs and related subsistence allowances
      - equipment costs
      - costs of other goods and services
      - capitalised and operating costs of large research infrastructure
- direct coordination costs for additional activities
- indirect costs.

Thus, the ERA-NET Cofund MGA does NOT have:

- personnel costs for SME owners without salary
- personnel costs for beneficiaries that are natural persons without salary
- personnel costs for providing trans-national or virtual access to research infrastructure
- specific cost categories.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

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

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM 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 in 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**'):

(a) for **costs of providing financial support to third parties implementing trans-national projects**: as actually incurred costs ('**actual costs**');

(b) for **direct personnel costs for the implementation of trans-national projects by the beneficiaries**:

- as actually incurred costs (**actual costs**) or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

(c) for **direct costs of subcontracting for the implementation of trans-national projects by the beneficiaries**: as actually incurred costs (**actual costs**);

(d) for **other direct costs for the implementation of trans-national projects by the beneficiaries**:

- for costs of internally invoiced goods and services: on the basis of an mount per unit calculated by the beneficiary in accordance with its usual cost accounting practices (**unit costs**);
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **direct coordination costs for additional activities**: on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(f) for **indirect costs**: on the basis of a flat-rate applied as set out in Point C of Article 6.2 ('**flat-rate costs**').

[…]

1. Maximum grant amount — Estimated eligible costs

The maximum grant amount and the estimated eligible costs are fixed in Article 5 at grant signature.

At the end of reporting period 1, the beneficiaries must however make an amendment, to adjust the initial budget (i.e. Annex 2, estimated eligible and, if needed, maximum grant amount) down to the amount justified by the selection list and the commitments to fund.

2. Reimbursement rate

How much? For ERA-NET Cofund, the reimbursement rate is currently set at **33 %** *(see General Annex D to the Main Work Programme)*.

3. Cost forms

The ERA-NET Cofund MGA, uses the same **cost forms** as the **General MGA** (i.e. actual costs, unit costs and flat rate costs; *see Article 5 H2020 General MGA*).

Cost forms of the ERA-NET Cofund MGA:

- **actual costs** for:
  - costs of providing **financial support**
  - **personnel** costs for implementing the trans-national projects (— unless declared as unit cost, *see below*)
  - **subcontracting** costs for implementing the trans-national projects
  - **other direct costs** for implementing the trans-national projects (— unless declared as unit cost, *see below*)
- **unit costs** for:
  - personnel costs calculated by the beneficiaries in accordance with their usual cost accounting practices (**average personnel costs**)
  - costs of **internally invoiced goods and services** calculated by the beneficiaries in accordance with their usual cost accounting practices
  - **coordination costs** for additional activities[115]
- **flat-rate costs** for:
  - **indirect costs**.

[115] Commission Decision C(2013) 8200 of 10 December 2013 authorising the use of reimbursement on the basis of unit costs for ERA-NET Cofund actions under the Horizon 2020 Framework Programme. Available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_era-net_cofund_en.pdf.

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

[…]

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 costs related to trans-national projects;
B. direct coordination costs for additional activities;
C. 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 C below).

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

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The ERA-NET Cofund MGA has its **own budget categories**. Some of them **cover** however the **same types of costs** as the General MGA, with the same **eligibility conditions** and **calculation rules** *(see Article 6 H2020 General MGA)*.

For ease of reference, the annotations for Article 6.2 will summarise — **for each budget category** — the information necessary to establish the eligible costs, i.e.

1. types of costs covered by the budget category
2. cost form under which the costs must be declared (i.e. actual costs, unit costs, flat rate)
3. eligibility conditions
4. how the costs must be calculated.

A. Direct costs related to trans-national projects

A.1 **Direct costs of providing financial support to third parties implementing trans-national projects** are eligible if the conditions set out in Article 15.1.1 are met.

A.2 **Direct costs for the implementation of trans-national projects by the beneficiaries** are eligible, if they comply with the conditions set out in Article 15.1.1 and the following:

A.2.1 **Direct personnel costs for the implementation of trans-national projects by the beneficiaries**

Types of eligible personnel costs

A.2.1.1 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 implementation of trans-national projects ('**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).

Beneficiaries that are non-profit legal entities[8] may also declare as personnel costs **additional remuneration** for personnel assigned to the implementation of trans-national projects (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.

'Additional remuneration' means any part of the remuneration which exceeds what the person would be paid for time worked in projects funded by national schemes.

Additional remuneration for personnel assigned to the implementation of trans-national projects is eligible up to the following amount:

(a) if the person works full time and exclusively on the implementation of trans-national projects during the full year: up to EUR 8 000;

(b) if the person works exclusively on the implementation of trans-national projects but not full-time or not for the full year: up to the corresponding pro-rata amount of EUR 8 000, or

(c) if the person does not work exclusively on the implementation of trans-national projects: up to a pro-rata amount calculated as follows:

{{EUR 8 000

divided by

the number of annual productive hours (see below)},

multiplied by

the number of hours that the person has worked on the trans-national projects during the year**}**.

A.2.1.2 The **costs for natural persons working under a direct contract** with the beneficiary other than an employment contract are eligible personnel costs, if:

(a) the person works under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed);

(b) the result of the work carried out belongs to the beneficiary (unless exceptionally agreed otherwise), 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 implementation of trans-national projects},

plus

for non-profit legal entities: additional remuneration to personnel assigned to the implementation of trans-national projects under the conditions set out above (Point A.2.1.1)**}**.

The number of actual hours declared for a person must be identifiable and verifiable (see Article 18).

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 one of the following:

(a) for personnel costs declared as **actual costs** (i.e. budget categories A.2.1.1,A.2.1.2 and A.2.1.3) : the hourly rate is calculated *per full financial year* as follows:

{actual annual personnel costs (excluding additional remuneration) for the person

divided by

number of annual productive hours}.

using the personnel costs and the number of productive hours for each full 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 implementation of trans-national projects may be deducted from the number of annual productive hours.

As an alternative, beneficiaries may calculate the hourly rate *per month*, as follows:

{{actual monthly personnel cost (excluding additional remuneration) for the person

divided by

{number of annual productive hours / 12}**}**.

using the personnel costs for each month and (one twelfth of) the annual productive hours calculated according to either option (i) or (iii) above, i.e.:

- fixed number of hours or
- standard annual productive hours.

Time spent on parental leave may not be deducted when calculating the hourly rate per month. However, beneficiaries may declare personnel costs incurred in periods of parental leave in proportion to the time the person worked on the action in that financial year.

If parts of a basic remuneration are generated over a period longer than a month, the beneficiaries may include only the share which is generated in the month (irrespectively of the amount actually paid for that month).

Each beneficiary must use only one option (per full financial year or per month) during each full financial year;

(b) for personnel costs declared on the basis of **unit costs** (i.e. budget categories A.2.1.1 and A.2.1.2) **calculated in accordance with the beneficiary's usual cost accounting practices**: the hourly rate calculated by the beneficiary in accordance with its usual cost accounting practices**,** if:

- the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;
- the hourly rate is calculated using the actual personnel costs recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories;

  The actual personnel costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the personnel costs, reasonable and correspond to objective and verifiable information, and

- the hourly rate is calculated using the number of annual productive hours (see above).

A.2.2 **Direct costs of subcontracting for the implementation of trans-national projects by the beneficiaries** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if the conditions in Article 13.1.1 are met.

A.2.3 **Other direct costs for the implementation of trans-national projects by the beneficiaries**

A.2.3.1 **Travel costs and related subsistence allowances** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if they are in line with the beneficiary's usual practices on travel.

A.2.3.2 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 10.1.1 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 the beneficiary) 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 costs of equipment, infrastructure or other assets **contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.

The only portion of the costs that will be taken into account is that which corresponds to the duration of the trans-national projects implemented by the beneficiary and rate of actual use for the purposes of the transnational projects implemented by the beneficiary.

A.2.3.3 **Costs of other goods and services** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible, if they are:

(a) purchased specifically for the trans-national projects implemented by the beneficiary and in accordance with Article 10.1 or

(b) contributed in kind against payment and in accordance with Article 11.1.

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

A.2.3.4 **Capitalised and operating costs of 'large research infrastructure'**[9]***[OPTION 1 by default:*** *directly used for the trans-national projects implemented by the beneficiary are eligible, if:*

(a) the value of the large research infrastructure represents at least 75% of the total fixed assets (at historical value in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure[10]*);*

*(b) the beneficiary's methodology for declaring the costs for large research infrastructure has been positively assessed by the Commission ('**ex-ante assessment**');*

(c) the beneficiary declares as direct eligible costs only the portion which corresponds to the duration of the trans-national projects implemented by the beneficiary and the rate of actual use for the purposes of the trans-national projects implemented by the beneficiary, and

*(d) they comply with the conditions as further detailed in the annotations to the H2020 Grant Agreements.**]***

[OPTION 2 to be used if foreseen in the work programme: *Not applicable.**]***

A.2.3.5 **Costs of internally invoiced goods and services** directly used for the action are eligible, if:***:***

(a) they are declared on the basis of a unit cost calculated in accordance with the beneficiary's usual cost accounting practices;

(b) the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

(c) the unit cost is calculated using the actual costs for the good or service recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories.

The actual costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the costs, reasonable and correspond to objective and verifiable information;

(d) the unit cost excludes any costs of items which are not directly linked to the production of the invoiced goods or service.

'Internally invoiced goods and services' means goods or services which are provided by the beneficiary directly for the action and which the beneficiary values on the basis of its usual cost accounting practices.

[8] For the definition, see Article 2.1(14) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)" ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.1.2013 p.81): '**non-profit legal entity**' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

[9] '**Large research infrastructure**' means research infrastructure of a total value of at least EUR 20 million, for a beneficiary, calculated as the sum of historical asset values of each individual research infrastructure of that beneficiary, as they appear in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure.

[10] For the definition see Article 2(6) of Rules for Participation: '**Research infrastructure**' are facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, e.g. for education or public services. They include: major scientific equipment (or sets of instruments); knowledge-based resources such as collections, archives or scientific data; e-infrastructures such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieve excellence in research and innovation. Such infrastructures may be 'single-sited', 'virtual' or 'distributed'

1. Costs for trans-national projects (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 The beneficiaries may declare the following **types of costs** as direct costs related to trans-national projects:

- direct costs of providing financial support to third parties implementing trans-national projects
- direct costs for the implementation of trans-national projects by the beneficiaries:
  - direct personnel costs for the implementation of trans-national projects by the beneficiaries:
    - basic remuneration (basic salary and complements)
    - for non-profit legal entities: additional remuneration ('bonus payments')
    - costs for natural persons working under a direct contract
    - costs of personnel seconded by a third party against payment
  - direct costs of subcontracting for the implementation of trans-national projects by the beneficiaries
  - other direct costs for the implementation of trans-national projects by the beneficiaries:
    - travel and related subsistence allowances
    - equipment

- other goods and services
- costs of large research infrastructure.

What? These budget categories **cover** costs for the implementation of trans-national projects.

What not? They do not cover the costs for organising the calls (i.e. preparation of the call, selection of the projects etc.) or for additional coordination and networking activities of beneficiaries implementing trans-national project themselves. Such costs are NOT eligible under the ERA-NET grant.

> ⚠ The beneficiaries must use their own funds for such activities.

1.2 All costs must normally be **declared as** actual costs *(see Article 5.2(b))*.

Personnel costs (average personnel costs) and costs of internally invoiced goods and services may also be declared as unit cost in accordance with the usual cost accounting practices.

1.3 In principle, the same **eligibility conditions** apply as in the General MGA *(see Article 6 H2020 General MGA)*.

The ERA-NET Cofund MGA has however the **following specificities**:

In some Articles, the conditions in the General MGA must be read as referring to 'trans-national projects' (instead of 'action').

Moreover, there are additional cost eligibility conditions in Article 15 for financial support to third parties *(e.g. selection procedure, compliance with national funding rules)*.

Finally, costs for financial support to third parties are usually eligible only AFTER the trans-national projects have ended.

1.4 The same **calculation rules** apply as in the General MGA *(see Article 6 H2020 General MGA*).

B. Direct coordination costs for additional activities

Direct coordination costs for additional activities are eligible, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual years in which the beneficiary has carried out the 'additional activities' described in Annex 1.

Beneficiaries that implement transnational projects (partially or fully) themselves cannot declare direct coordination costs for additional activities.

1. Additional coordination costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the direct costs for additional activities related to the coordination of national/regional research and innovation programmes *(see also Article 2)*.

1.2 The costs must be **declared as** the unit cost fixed by Decision C(2013) 8200[116] and indicated in Annex 2 of the GA (currently **EUR 29 000** per beneficiary per year).

In practice, the declaration of costs for additional activities is very simple and almost completely automatized: The beneficiary must only indicate the number of years (during which such activities were implemented) and the costs are then automatically calculated by the IT system.

1.3 The costs must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(b)*)
- be declared for the **additional coordination activities** described in Annex 1.

Costs for additional coordination activities are limited to the beneficiaries that carry out such activities.

Beneficiaries that implement trans-national projects can NOT declare any additional coordination costs.

1.4 They are **calculated** (automatically by the IT system) as follows:

amount per unit (EUR 29 000) **x** number of years in which additional activities were carried out

According to General Annex D to the Main Work Programme, the EU funding for coordination costs should not exceed 20 % of the maximum grant amount set out in Article 5.1.

If the additional activities are not properly implemented as described in Annex 1, the grant may be **reduced** *(see Articles 7 and 43)*.

Example: *Beneficiaries make only two meetings on general strategy.*

[116] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_era-net_cofund_en.pdf.

C. Indirect costs

Indirect costs are eligible if they are declared on the basis of the flat-rate of 25% of the eligible direct costs (see Article 5.2 and Points A and B above), from which are excluded:

(a) costs of subcontracting for the implementation of trans-national projects by the beneficiaries;

(b) costs of in-kind contributions provided by third parties which are not used on the beneficiary's premises and

(c) costs of financial support to third parties implementing trans-national projects.

Beneficiaries receiving an operating grant[11] financed by the EU or Euratom budget cannot declare indirect costs for the period covered by the operating grant, unless they can demonstrate that the operating grant does not cover any costs of the action.[…]

[11] For the definition, see Article 121(1)(b) of the Financial Regulation: '**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.

1. Indirect costs (C.): Types of costs — Form — Eligibility conditions — Calculation

For this budget category, in principle the same rules apply as in the General MGA *(see Article 6 H2020 General MGA)*.

The flat-rate is however calculated on the following eligible direct costs:

- direct costs for the implementation of trans-national projects by the beneficiaries
- direct coordination costs for additional activities.

'Direct costs of providing financial support to third parties implementing trans-national projects' are NOT included.

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

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

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

If it is necessary for the implementation of the trans-national projects by the beneficiaries, they may:

- purchase goods, works and services (see Article 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For ERA-NET Cofund actions, generally the same rules on third party involvement apply as in the General MGA *(see Article 8 H2020 General MGA)*.

However, entities contributing to the joint call for proposals can only participate as beneficiaries or linked third parties (NOT as other third parties involved in the action).

Use of **third party resources** (i.e. purchasing of goods, works or services (Article 10), in-kind contributions (Articles 11 and 12) or subcontractors (Article 13)) is ONLY allowed for beneficiaries/linked third parties that **implement trans-national projects**.

Linked third parties may participate in all activities under the action.

ARTICLE 15 — SUPPORT TO OR IMPLEMENTATION OF TRANS-NATIONAL PROJECTS

ARTICLE 15 — SUPPORT TO OR IMPLEMENTATION OF TRANS-NATIONAL PROJECTS

15.1 Rules for providing support to or implementation of trans-national projects

15.1.1 The beneficiaries must **provide financial support** to trans-national projects or **implement** such **projects** (partially or fully) themselves, in accordance with the following conditions:

(a) types of activity that qualify for financial support and persons or categories of persons that may receive financial support:

The projects must be **trans-national projects**, involving at least two independent entities from two different EU Member States or associated countries;

(b) **selection procedure** and criteria:

The projects must be selected following a single joint transnational call for proposals.

The beneficiaries must make the selection through a two-step procedure:

- Step 1: review at national or trans-national level
- Step 2: single international peer review.

Only entities that are eligible for funding under the national programmes involved in the joint call may be invited to Step 2.

In Step 2, the beneficiaries must evaluate proposals with the assistance of at least three **independent experts**, on the basis of the following award criteria:

(a) excellence;

(b) impact;

(c) quality and efficiency of the implementation.

Proposals must be ranked according to the evaluation results. The selection must be made on the basis of this **ranking**.

The selection procedure must be followed by an independent expert observer, who must make a report (see Article 20.2a);

(c) other conditions:

In the case of support to entities that are third parties, 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 Article 22 and 23 also towards the third parties receiving financial support.

Financial support to entities that are third parties must comply with **national funding rules**.

The **maximum amount of financial support** to a third party and the **criteria for** determining the **exact amount** under national funding rules are set out in Annex 1.

15.1.2 In addition, the beneficiaries must:

- publish a joint call on a dedicated webpage and promote it at national/regional level via their usual channels of communications to potential proposers;
- keep the joint call open for at least 60 days;
- take all lawful steps to ensure confidentiality of information and documents obtained during the evaluation and selection procedures of the joint call.

15.2 Consequences of non-compliance

If a beneficiary breaches its obligations under Article 15.1.1, the costs of the beneficiary for its financial support to the trans-national projects or for the implementation of its trans-national projects will be ineligible (see Article 6) and will be rejected (see Article 42).

If the beneficiary breaches its obligations under Article 15.1.2, the grant may be reduced (see Article 43).

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

1. Providing financial support — Implementing trans-national projects

For ERA-NET Cofund actions, the beneficiaries may provide financial support to third parties (i.e pass on the EU support they receive via the ERA-NET Cofund grant to recipients that are not party to the GA, also called 'cascade funding').

In this case, the beneficiaries' activity consists in providing financial support, while it is the recipients (third parties) that actually implement the trans-national research and/or innovation projects.

The beneficiaries may however also choose to implement the projects themselves.

Article 15 contains both additional cost eligibility conditions (in Article 15.1.1) and 'other obligations' (in Article 15.1.2).

2. Additional cost eligibility condition: Trans-national projects

The projects must be trans-national (i.e. they must involve at least two independent entities from two different EU Member States or H2020 associated countries), both in case of:

- financial support to third parties and
- implementation of the projects by the beneficiaries themselves.

3. Additional cost eligibility condition: Two-step selection procedure

The beneficiaries must select the trans-national projects according to a two-step procedure, ensuring that:

- only entities that are eligible for funding under the national funding rules are invited to Step 2 and

– consortia can balance the requested funding and available funding per participating EU Member State and H2020 associated country between Steps 1 and 2.

4. Additional cost eligibility condition: Independent experts — Observer

In addition to expert evaluators, the beneficiaries must appoint an independent expert as an observer to verify that the selection procedure (and, in particular, the peer review evaluation and the ranking) meets the requirements of Article 15.

The observer's report must be submitted by the coordinator, as part of the periodic report *(see Article 20.3)*.

5. Additional cost eligibility condition: Ranking list(s) — Joint selection list

The beneficiaries must base their selection (**joint selection list**) on the order of the ranking list (or the ranking lists, if there are different topics).

If proposals have identical scores, the proposals coming from participating EU Member States or H2020 associated countries with still available funding can be given precedence, in order to maximise the number of selected projects.

The ranking list(s) and the joint selection list must be submitted by the coordinator, as part of the periodic report *(see Article 20.3)*.

6. Additional cost eligibility condition: Compliance with national funding rules

If the beneficiaries provide financial support to third parties, the support must comply with the applicable national funding rules.

The trans-national projects must have been implemented (by the recipients) in compliance with those rules.

Moreover, the beneficiaries must ensure that costs are checked and that their payments are made in compliance with those rules (and certify this; *see Article 20.4*).

7. Additional cost eligibility condition: Conditions for support set out in Annex 1 — Maximum amount of financial support

If the beneficiaries provide financial support to third parties, the beneficiaries may not exceed the maximum amount of financial support set out in Annex 1 and must apply the criteria set out in Annex 1 for fixing the exact amount of funding.

This information must already be part of the proposal *(see the proposal templates)*.

For both, the beneficiaries should rely on the applicable national funding rules. If the national rules do not specify a maximum amount, they must enter the amount of their part of the call budget.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must submit:

- at least 30 days before the expected date of publication of the joint call: **information on the call** and its content;
- at the end of the selection: **information on each selected project** (including data on each participant and abstracts of the project proposal, in a format specified by the *[Commission][Agency]*), for publication and evaluation purposes;
- ***[OPTION 1 by default (two pre-financing payments):*** *in month 36 a '**progress report**' containing:*
  - *an **explanation of the work** carried out by the beneficiaries;*
  - *an **overview of the progress** towards the objectives of the action, including milestones and other 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;
  - *a **summary** for publication by the [Commission][Agency];**]***

  [OPTION 2 in case of three pre-financing payments: *not applicable;**]***
- at the end of the action: **information on each implemented project** (including data on each participant and overview of the results, in a format specified by the *[Commission][Agency]*), for publication and evaluation purposes, and
- any **other deliverables** identified in Annex 1, in accordance with the timing and conditions set out in it.

19.2 Consequences of non-compliance

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

1. Deliverable: Information on each selected project — Information on each implemented project

When & What? For ERA-NET Cofund actions, the coordinator must — once the trans-national projects have been selected — submit to the Commission/Agency a list of all the projects with certain information.

Example: *data on each participant and abstracts of the proposals*

This information must be updated by the coordinator at the end of the action, by submitting a list of all implemented projects, together with certain information.

Example: *data on each participant and an overview of the results*

How? The information must be uploaded directly in the Participant Portal

2. Deliverable: Information on cumulative expenditure incurred

What & When? The coordinator must submit to the Commission/Agency — on a yearly basis — information on the cumulative expenditure incurred by the consortium

How? In practice, this mandatory declaration for ERA-NET Cofund *(see Article 20.5)* is handled as deliverable and must be uploaded directly in the Participant Portal.

It does NOT need to be set out in Annex 1 (since legally speaking the obligation is not based on Article 19 but on Article 20.5).

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The coordinator must submit to the *[Commission][Agency]* (see Article 52) the reports set out in this Article. These reports include the requests for payments and must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

20.2 Reporting periods

[OPTION 1 by default (two pre-financing payments): *The action is divided into the following '**reporting periods**':*

- *RP1: from month 1 to month [X[19]]*
- *RP2: from month [X+1] to [the last month of the project]]*

[OPTION 2 in case of three pre-financing payments: *The action is divided into the following '**reporting periods**':*

- *RP1: from month 1 to month [X[20]]*
- *RP2: from month [X+1] to month [36]*
- *RP3: from month [37] to [the last month of the project]]*

20.2a Periodic reports — Requests for second *[and third]* pre-financing payment*[s]*

The coordinator must submit a periodic report within 60 days following the end of the first 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 other 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.

The report must detail the exploitation and dissemination of the results and — if required in Annex 1 — an updated '**plan for the exploitation and dissemination of the results**'.

The report must indicate the communication activities;

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

(iv) the answers to the '**questionnaire**' covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements.

(b) the **ranking list(s)** of the projects;

(c) the **observers' report on the evaluation**;

(d) the **joint selection list** of the projects to be funded;

(e) from each beneficiary participating in the joint call, a formal and duly signed '**commitment on availability of funds**' (see Annex 7), and

(f) a '**statement on the use of the first pre-financing payment**' (see Annex 8), including the **request for a second pre-financing payment.**

The coordinator must certify that the information provided is full, reliable and true and that it can be substantiated by adequate supporting documentation that will be produced upon request or in the context of checks, reviews, audits and investigations (see Articles 17, 18 and 22).

[OPTION in case of three pre-financing payments: *The coordinator must submit a periodic report within 60 days following the end of the second reporting period.*

The periodic report must include the following:

*(a) a **periodic technical report** (see point (a) above) and*

*(b) a **statement on the use of the second pre-financing payment** (see Annex 8), including the **request for a third pre-financing payment**.*

The coordinator must certify that the information provided is full, reliable and true and that it can be substantiated by adequate supporting documentation that will be produced upon request or in the context of checks, reviews, audits and investigations (see Articles 17, 18 and 22). ***]***

20.3 Request for interim payments

Not applicable.

20.4 Final report — Request for payment of the balance

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 exploitation and dissemination;

(ii) the conclusions on the action, and

(iii) the socio-economic impact of the action;

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

(i) an '**individual financial statement**' (see Annex 4), from each beneficiary *[and from each linked third party]*, for all reporting periods.

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

The beneficiaries *[and linked third parties]* must declare all eligible costs, even if — for actual costs, unit costs 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 *[Commission][Agency]*.

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

Each beneficiary *[and each linked third party]* must certify that:

- the information provided is full, reliable and true;
- the costs declared are eligible (in particular, in case of financial support to third parties, that it has been paid in compliance with the applicable national funding rules; see Article 15);

- the costs can be substantiated by adequate records and supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22), and

- all the receipts have been declared (see Article 5.3.3);

(ii) an **explanation of the use of resources** and the information on subcontracting (see Article 13) and in-kind contributions provided by third parties (see Articles 11 and 12) from each beneficiary *[and from each linked third party]*;

(iii) ***[OPTION 1 if the JRC is a beneficiary:*** *information on the amount of payment of the balance to be paid by the [Commission][Agency] to the Joint Research Centre (JRC);****][OPTION 2:*** *not applicable;****]***

(iv) a '**summary financial statement**' , created automatically by the electronic exchange system, consolidating the individual financial statements and including the **request for payment of the balance**;

(v) a '**certificate on the financial statements**' (drawn up in accordance with Annex 5) for each beneficiary *[and for each linked third party]*, if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Point A.2.1 of Article 6.2).

20.5 Information on cumulative expenditure incurred

In addition to the reporting requirements set out above (Article 20.1 to 20.3), the coordinator must inform the *[Commission][Agency]* by *[31 December][30 November]* each year of the cumulative expenditure incurred by the beneficiaries from the starting 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.

[…]

[19] Month X should be the expected end of the selection procedure referred to in Article 15.1.1.
[20] Month X should be the expected end of the selection procedure referred to in Article 15.1.1.

1. Reports

When & What? For ERA-NET Cofund actions, the coordinator has to submit — after the first reporting period (and, if there are 3 pre-financing payments, also after the second reporting period) — a **periodic technical report**, with information on the technical implementation.

NO financial reporting is needed during the action (i.e. no financial statements before the final report). The coordinator only has to sign and submit a statement on the use of the previous pre-financing instalment (which includes also the request for further pre-financing payments; only the first pre-financing payment is automatic; *see Annex 8*).

List of documents for the periodic report(s):

- explanation of the work carried out
- overview of the progress
- summary for publication
- questionnaire (i.e. the structured information requested)

- ranking list of the projects
- observer report on the evaluation
- joint selection list
- commitment on availability of funds (Annex 7)
- statement on the use of the previous pre-financing instalment (Annex 8).

At the end of the action, the coordinator has to submit a **final report**, with both the technical and financial report.

How? Each (periodic or final) report must be **prepared** by the **coordinator** and the **beneficiaries together**, directly in the Participant Portal).

2. Reporting periods

ERA-NET Cofund actions are normally divided into 2 reporting periods with 2 pre-financing payments (or exceptionally 3 reporting periods with 3 pre-financing payments, if the Commission/Agency does not have sufficient payment credits to pay the entire amount as a second pre-financing payment; *see Article 21*).

The first (and, if there are 2 pre-financing payments, also the second) reporting period triggers a periodic report.

3. Information on cumulative expenditure incurred

Since reporting periods in ERA-NET Cofund actions normally exceed 18 months and ERA-NET Cofund grants are normally above EUR 5 000 000 with a pre-financing payment, all ERA-NET grants contain this clause.

The declaration is normally handled as deliverable *(see Article 19)*.

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

The following payments will be made to the coordinator:

- a **first pre-financing** payment;
- a **second pre-financing** payment, on the basis of the request for a second pre-financing payment (see Article 20);
- *[a **third pre-financing** payment, on the basis of the request for a third pre-financing payment (see Article 20);]*
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20)

21.2 Pre-financing payments — Amount — Amount retained for the Guarantee Fund

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 *[Commission][Agency]* will — within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest — make a first pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Article 48 applies.

From this amount, an amount of EUR [**insert amount** (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the *[Commission][Agency]* and transferred into the '**Guarantee Fund**'.

The *[Commission][Agency]* will — within 60 days after receiving the request (see Article 20) — make a second pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Articles 47 or 48 apply.

[OPTION in case of three pre-financing payments:** The [Commission][Agency] will — within 60 days after receiving the request (see Article 20) — make a third pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Articles 47 or 48 apply.**]

If the statement on the use of the previous pre-financing payment shows that less than 70% of the previous payment has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70% threshold and the amount used.

[OPTION if the JRC is a beneficiary:** The parts of the pre-financing payments related to the Joint Research Centre (JRC) ([**insert amounts** (insert amounts in words)] are not paid to the coordinator, but kept by the [Commission][Agency] for the JRC.**]

21.3 Interim payments — Amount — Calculation

Not applicable

[…]

21.5 Notification of amounts due

When making payments, the *[Commission][Agency]* will formally notify to the coordinator the amount due, specifying whether it concerns the second *[or third]* pre-financing 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 43 and 45.

[…]

1. Payments — No interim payments

ERA-NET Cofund actions normally are divided into 2 reporting periods *(see Article 20.2)* with 2 pre-financing payments (— unless the action is exceptionally divided into 3 reporting periods with 3 pre-financing payments because the Commission/Agency does not have sufficient payment credits).

There are NO interim payments, but the second pre-financing payment (after the end of the first reporting period, i.e. after the evaluation of the trans-national projects) provides beneficiaries with the necessary funds to support or implement the trans-national projects.

The second (or third) pre-financing payment is NOT automatic but must be requested by the coordinator via a statement on the use of the previous pre-financing payment *(see Article 20)*.

In this statement, the beneficiaries must simply declare how much of the previous pre-financing was used up, not how much costs were incurred (since ERA-NET Cofund pre-financing is NOT linked to financial reporting).

The balance is paid when the action ends (after the submission of financial reports).

2. Amount of pre-financing payments

How much? Typically (and depending on the availability of EU budget credits), the amounts of the pre-financing payments for ERA-NET Cofund actions are as follows:

- for the first pre-financing payment: between 10% and 30 % of the maximum grant amount
- for the second pre-financing payment: between 60 % and 80% of the maximum grant amount.

If the GA provides for a 3 pre-financing payments, then the amount is divided as follows:

- 30 % for the first pre-financing payment
- 30 % for the second pre-financing payment
- 30 % for the third pre-financing payment.

⚠ The second/third pre-financing payment will be **reduced**, if — according to the statement on use of the previous pre-financing instalment — the previous pre-financing was **not fully used**:

- if 70% or more of the first/second pre-financing has been used: the second/third pre-financing is paid in full
- if less than 70% of the first/second pre-financing has been used: the second/third pre-financing will be reduced by an amount equal to the difference between the percentage actually used and 70%.

VI. PCP/PPI MGA

VI.1 Background information and approach

The PCP/PPI Model Grant Agreement is used for PCP/PPI actions only.

The PCP/PPI MGA follows the General MGA for numbering and content, except for:

The H2020 MGA PCP-PPI deviates from the General MGA as follows:

- Article 5.2 (PCP-PPI specific reimbursement rate and forms of costs)
- Article 6.2 (PCP-PPI specific conditions for eligibility of costs)
- Article 13 (specific provisions for subcontracting of the PCP R&D services/PPI innovative solutions)
- Article 15 (financial support to third parties not applicable)
- Article 19 (PCP-PPI specific deliverables)
- Article 20.1 – 20.5 (PCP-PPI specific reporting provisions)
- Article 21.1 – 21.3, 21.5 (PCP-PPI specific payment provisions)
- Article 23 (PCP-PPI specific impact evaluation provisions)

- Annex 2 Model for the estimated budget for the action
- Annex 4 Model for the financial statement
- Annex 7 Model for the commitment on availability of resources
- Annex 8 Model for the statement on the use of the previous pre-financing instalment

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Article 15, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for PCP/PPI actions are added:

- Article 2 (PCP/PPI actions)
- Article 4.1 (PCP/PPI budget categories)
- Article 8 (PCP/PPI rules on third party involvement).

VI.2 H2020 MGA PCP/PPI: Annotations

GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

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

on the one part,

***[OPTION 1**: the **European Union** ('the EU', represented by the European Commission ('the Commission')[3],]*

***[OPTION 2:** the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('the Commission')[4],]*

***[OPTION 3:** the [**Research Executive Agency (REA)**] [**European Research Council Executive Agency (ERCEA)**] [**Innovation and Networks Executive Agency (INEA)**] [**Executive Agency for Small and Medium-sized Enterprises (EASME)**] ('the Agency'), under the powers delegated by the European Commission ('the Commission')[5],]*

represented for the purposes of signature of this Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname],[6]

and

on the other part,

1. 'the **coordinator**':

[**full official name (short name)**], [established in [official address in full], *[**OPTION for beneficiaries with VAT:** VAT number [insert number]], **[OPTION for coordinators not receiving EU funding:** as 'beneficiary not receiving EU funding' (see Article 9),]* 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 56):

2. [**full official name (short name)**], established in [official address in full], *[**OPTION for beneficiaries with VAT:** VAT number [insert number]],*

***[OPTION for beneficiaries not receiving EU funding:** X. [**full official name (short name)**], established in [official address in full] [**OPTION for beneficiaries with VAT:** VAT number [insert number]], as 'beneficiary not receiving EU funding' (see Article 9),]*

[same for each beneficiary]

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

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 it, 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
	2a Additional information on the estimated budget
Annex 3	Accession Forms
	[OPTION to be used if Article 14 applies and if joint and several liability has been requested by the [Commission][Agency]: *3a Declaration on joint and several liability of linked third parties**]***
	[OPTION if the JRC participates: *3b Administrative Arrangement**]***
Annex 4	Model for the financial statements
Annex 5	Model for the certificate on the financial statements
Annex 6	Model for the certificate on the methodology
Annex 7	Model for the commitment on availability of funds
Annex 8	Model for the statement on the use of the previous pre-financing payment

[3] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[5] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[6] The person representing the 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*'.

1. Participants: Coordinator — Beneficiaries — Linked third parties — Third parties involved in the action

PCP/PPI uses in principle the same concepts for participants as the General MGA (i.e. coordinator, beneficiaries, linked third parties, etc).

However, all entities contributing financially to the PCP or PPI procurement budget MUST participate as beneficiaries or linked third parties in the GA (NOT as other third parties involved in the action; *see Article 8)*. They form the buyers group.

Linked third parties — Linked third parties are allowed to *fully* participate in the action, like beneficiaries. They will therefore be treated for many issues (including cost eligibility; see *Article 6.3 H2020 General MGA*) like beneficiaries.

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]

ARTICLE 2 — ACTION TO BE IMPLEMENTED *[— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]*

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

[OPTION for complementary grants if foreseen in the work programme: *The grant is a '**complementary grant**' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- *[insert number] [insert acronym]*
- *[insert number] [insert acronym]].]*

[OPTION for joint actions (joint call with a third country or an international organisation)*: The action is a '**jointly funded action**' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.]*

1. PCP/PPI actions

What? PCP/PPI funds:

- one single joint public procurement of research and development (R&D) services (PCP) or one joint or several coordinated public procurements for innovative solutions (PPI)

AND

- related additional coordination and networking activities.

For PCP actions, it must be only one PCP per GA; for PPI actions, it can be one joint or several coordinated PPIs per GA.

The additional activities must relate to the joint call for tender, including coordination and networking activities needed to prepare, manage and follow-up the PCP/PPI procurement and other coordination and networking activities to embed the PCP/PPI into a wider set of demand side activities *(see General Annex D to the Main Work Programme)*.

> ***Examples:*** *activities that aim to remove barriers to introducing an innovative solution on the market (including standardisation, certification and regulation); activities that prepare the ground for cooperation on future PCP or PPI projects.*

Coordination activities needed to coordinate the PCP/PPI procurement are mandatory. Other additional activities are optional *(e.g. other coordination and networking activities to embed the PCP/PPI into a wider set of demand side activities)*.

Normally, PCP/PPI grants are multi-beneficiary grants; exceptionally they can be *mono*-beneficiary grants for 'sole participants' *(see General Annex C and D to the Main Work Programme)*.

PCP/PPI actions are funded in all Parts of Horizon 2020 *(e.g. SEC-09-FCT-2017)*.

The possibility to have several coordinated PPIs was introduced with GA version 4.0 but is also open to older grant agreements.

For more information on PCP/PPI actions, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the General Annexes to the Main Work Programme and the call and topics pages of the call.*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*). ***[OPTION to be used if Article 9 or 14 a applies:*** *It also shows the estimated costs of the beneficiaries not receiving EU funding (see Article 9)[and][international partners (see Article 14a)].]*

[…]

1. Estimated budget

When submitting the proposal with the estimated eligible costs for PCP/PPI actions, the consortium must decide who will pay the PCP/PPI subcontracts (and who may — by consequence — declare the subcontracting costs), i.e.:

- either the lead procurer (centralised payment; the consortium has a common jointly-committed budget; the lead procurer is mandated to sign the subcontracts and pays all subcontractors; *see Article 13*).

OR

- the members of the buyers group (the individual members of the buyers group pay the subcontractors pro rata; *see Article 13*).

2. Budget categories

The PCP/PPI MGA uses its **own budget categories**.

Budget categories of the PCP/PPI MGA:

- direct costs of PCP/PPI subcontracting

  These are the costs for procuring the R&D services (in the case of PCP) or the innovative solutions (in the case of PPI) (i.e. the estimated procurement price).

  Only the beneficiary(ies) that pay the PCP/PPI suppliers can declare PCP/PPI subcontracting costs. Who actually pays the PCP/PPI suppliers depends on the choice made by the consortium when submitting the estimated eligible costs: either the lead procurer or the members of the buyers group *(see Article 4)*.

- costs of related additional coordination and networking activities
  - direct personnel costs for related additional coordination and networking activities
    - costs for employees (or equivalent)
    - costs for natural persons working under a direct contract
    - costs of personnel seconded by a third party against payment
    - costs for SME owners without salary
    - costs for beneficiaries that are natural persons without salary

        - personnel costs for providing trans-national access to research infrastructure
    - direct costs of subcontracting for related additional coordination and networking activities
    - other direct costs for related additional coordination and networking activities
        - travel costs and related subsistence allowances
        - equipment costs
        - costs of other goods and services
        - capitalised and operating costs of large research infrastructure
    - indirect costs for related additional coordination and networking activities
    - specific cost categories (if option applies).

Thus, the PCP/PPI MGA does NOT have:

– direct costs of providing financial support to third parties.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

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

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

[…]

5.2 Form of grant, reimbursement rate 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**'):

(a) for **direct costs of** ***[PCP][PPI]*** **subcontracting**: as actually incurred costs ('**actual costs**');

(b) for **direct personnel costs for related additional coordination and networking activities** *[(excluding personnel costs covered by the unit cost under Point (f))]*[8]:

- as actually incurred costs (**actual costs**) or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

Personnel **costs for SME owners** or **beneficiaries that are natural persons** not receiving a salary (see Article 6.2, Points B.1.4 and B.1.5) must be declared on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(c) for **direct costs for subcontracting of related additional coordination and networking activities** *[(excluding subcontracting costs covered by the unit cost under Point (f))]*[9]: as actually incurred costs (**actual costs**);

(d) for **other direct costs for related additional coordination and networking activities** *[(excluding other direct costs covered by the unit cost under Point (f))]*[10]:

- for costs of internally invoiced goods and services: on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices (**unit costs**);
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **indirect costs for related additional coordination and networking activities** *[(excluding indirect costs covered by the unit cost under Point (f))]*[11]: on the basis of a flat-rate applied as set out in Point B.4(a),(b) and (c) of Article 6.2 ('**flat-rate costs**');

(f) ***[OPTION 1 for specific unit costs (if foreseen by Commission decision and applicable to the grant):*** *for [**insert name of specific cost category(ies)**[12]] that are part of related additional coordination and networking activities:on the basis of the amount(s) per unit set out in Annex 2a*[13] ***(unit costs).]***

[OPTION 2: specific cost category(ies): *not applicable.****]***

[…]

8 To be used only if option in Point (f) is used.
9 To be used only if option in Point (f) is used.
10 To be used only if option in Point (f) is used.
11 To be used only if option in Point (f) is used.
12 Insert precise name of the cost (as in the Commission decision authorising the use of the unit cost/lump-sum). For example: 'access costs for providing trans-national access to research infrastructure'; costs for 'clinical studies'; costs for 'energy efficiency measures in buildings'.
13 Annex 2 must clearly show, for each beneficiary (and linked third party) concerned, all the parameters for the unit cost (i.e. the unit(s), the amount(s) per unit, the research installation/infrastructure for which it is used, the clinical study for which it is used, etc.).

1. Reimbursement rates

How much? The PCP/PPI, normally uses the same reimbursement rates as the General MGA (**100%** for research and innovation actions (RIA) and **70% or 100%** for innovation actions (IA) actions; *see Article 5 H2020 General MGA*), unless the call provides exceptionally for another rate.

2. Cost forms

The PCP/PPI MGA uses the **same cost forms** as the **General MGA** (i.e. actual costs, unit costs and flat rate costs; *see Article 5 H2020 General MGA*).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

[…]

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 costs of *[PCP][PPI]* subcontracting
B. Costs for related additional coordination and networking activities

'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 B.4 below).

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

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The PCP/PPI MGA has its **own budget categories.** Some of them **cover** however the **same types of costs** as the General MGA, with the same **eligibility conditions** and **calculation rules** *(see Article 6 H2020 General MGA)*.

For ease of reference, the annotations for Article 6.2 will summarise — for each budget category — the information necessary to establish the eligible costs, i.e.

1. types of costs covered by the budget category
2. cost form under which the costs must be declared (i.e. actual costs, unit costs, flat rate)
3. eligibility conditions
4. how the costs must be calculated.

A. Direct costs of *[PCP][PPI]* subcontracting (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if the conditions in Article 13.1 are met.

1. PCP/PPI subcontracting costs (A.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This budget category **covers** the costs of the PCP/PPI procurement (i.e. the price paid and the related taxes; for VAT, *see Article 6.5*).

Only costs of R&D services or innovative solutions *subcontracted* by the beneficiaries are eligible. Costs related to R&D and innovation activities carried out by the beneficiaries *themselves* are NOT eligible in PCP/PPI actions.

What not? Indirect costs for the PCP subcontracting are not reimbursed.

1.2 These costs must be **declared as** actual costs (i.e. on the basis of the prices actually paid) *(see Article 5.2(a))*.

1.3 They must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*)
- be incurred for the **PCP/PPI subcontracting** described in Annex 1
- fulfil the **additional** cost eligibility **conditions** set out in Article 13.1.1.

1.4 There is no specific **calculation** method. The costs must correspond to the eligible costs actually incurred.

B. Costs for related additional coordination and networking activities are eligible up to EUR [(insert amount (insert amount in words)[14]], if they comply with the following:

B.1 **Direct personnel costs for related additional coordination and networking activities** ***[(not covered by Point B.5]***

Types of eligible personnel costs

B.1.1 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 related additional coordination and networking activities ('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).

Beneficiaries that are non-profit legal entities[15] may also declare as personnel costs **additional remuneration** for personnel assigned to the related additional coordination and networking activities (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.

'Additional remuneration' means any part of the remuneration which exceeds what the person would be paid for time worked in projects funded by national schemes.

Additional remuneration for personnel assigned to the related additional coordination and networking activities is eligible up to the following amount:

(a) if the person works full time and exclusively on the related additional coordination and networking activities during the full year: up to EUR 8 000;

(b) if the person works exclusively on the related additional coordination and networking activities but not full-time or not for the full year: up to the corresponding pro-rata amount of EUR 8 000, or

(c) if the person does not work exclusively on the related additional coordination and networking activities up to a pro-rata amount calculated as follows:

{{EUR 8 000

divided by

the number of annual productive hours (see below)},

multiplied by

the number of hours that the person has worked on the action during the year**}**.

B.1.2 The **costs for natural persons working under a direct contract** with the beneficiary other than an employment contract are eligible personnel cost, if:

(a) the person works under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed;

(b) the result of the work carried out belongs to the beneficiary (unless exceptionally agree otherwise), and

(c) the costs are not significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

B.1.3 The **costs of personnel seconded by a third party against payment** are eligible personnel costs if the conditions in Article 11.1 are met.

B.1.4 **Costs of owners** of beneficiaries that are small and medium-sized enterprises ('**SME owners**'), who are working on the related additional coordination and networking activities and who do not receive a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual hours worked on the related additional coordination and networking activities.

B.1.5 **Costs of** '**beneficiaries that are natural persons**' not receiving a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual hours worked on the related additional coordination and networking activities.

[**B.1.6 [**OPTION to be used for trans-national access to research infrastructure: Personnel costs for providing trans-national access to research infrastructure** are eligible only if also the conditions set out in Article 16.1.1 are met.] [**OPTION to be used for virtual access to research infrastructure: Personnel costs for providing virtual access to research infrastructure** are eligible only if also the conditions set out in Article 16.2 are met.]**]

Calculation

Personnel costs must be calculated by the beneficiaries as follows:

{{hourly rate

multiplied by

number of actual hours worked on the related additional coordination and networking activities},

plus

for non-profit legal entities: additional remuneration to personnel assigned to the related additional coordination and networking activities under the conditions set out above (Point B.1.1)**}**.

The number of actual hours declared for a person must be identifiable and verifiable (see Article 18).

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 one of the following:

(a) for personnel costs declared as **actual costs** (i.e. budget categories B.1.1, B.1.2, B.1.3 [and B.1.6]): the hourly rate is calculated *per full financial year* as follows:

{actual annual personnel costs (excluding additional remuneration) for the person

divided by

number of annual productive hours}.

using the personnel costs and the number of annual productive hours for each full 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 related additional coordination and networking activities may be deducted from the number of annual productive hours.

As an alternative, beneficiaries may calculate the hourly rate *per month*, as follows:

{actual monthly personnel cost (excluding additional remuneration) for the person

divided by

{number of annual productive hours / 12}**}**

using the personnel costs for each month and (one twelfth of) the annual productive hours calculated according to either option (i) or option (iii) above, i.e.:

-fixed number of hours;

-standard annual productive hours.

Time spent on **parental leave** may not be deducted when calculating the hourly rate per month. However, beneficiaries may declare personnel costs incurred in periods of parental leave in proportion to the time the person worked on the action in that financial year.

If parts of a basic remuneration are generated over a period longer than a month, the beneficiaries may include only the share which is generated in the month (irrespective of the amount actually paid for that month).

Each beneficiary must use only one option (per full financial year or per month) for during each full financial year;

(b) for personnel costs declared on the basis of **unit** costs (i.e. budget categories B.1.1, B.1.2, B.1.4, B.1.5 [*and B.1.6*]): the hourly rate is one of the following:

- for SME owners or beneficiaries that are natural persons: the hourly rate set out in Annex 2a (see Points B.1.4 and B.1.5 above), or

- for personnel costs declared on the basis of the beneficiary's usual cost accounting practices: the hourly rate calculated by the beneficiary in accordance with its usual cost accounting practices**,** if:

  - the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

  - the hourly rate is calculated using the actual personnel costs recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget

The actual personnel costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the personnel costs, reasonable and correspond to objective and verifiable information:

and

- the hourly rate is calculated using the number of annual productive hours (see above).

B.2 **Direct costs of subcontracting for related additional coordination and networking activities *[(not covered by Point B.5)]*** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if the conditions in Article 13.2.1 are met.

[OPTION to be used for trans-national access to research infrastructure: *Subcontracting costs* ***for providing trans-national access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

[OPTION to be used for virtual access to research infrastructure: *Subcontracting costs* ***for providing virtual access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.2 are met.****]***

B.3 **Other direct costs for related additional coordination and networking activities *[(not covered by Point B.5)]***

B.3.1 **Travel costs and related subsistence allowances** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if they are in line with the beneficiary's usual practices on travel.

[OPTION to be used for trans-national access to research infrastructure: *Travel costs* ***for providing trans-national access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

B.3.2 ***[OPTION 1 by default****: 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 10.1.1 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 the beneficiary) 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 costs of equipment, infrastructure or other assets ***contributed in-kind against payment*** *are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.*

*The only portion of the costs that will be taken into account is that which corresponds to the duration of the related additional coordination and networking activities and rate of actual use for the purposes of the related additional coordination and networking activities.****]***

[OPTION 2 (alternative to option above) to be used if foreseen in the work programme[16]: *The* ***cost of purchasing equipment****,* ***infrastructure*** *or* ***other assets*** *(new or second-hand) (as recorded in the beneficiary's accounts) are eligible if the equipment, infrastructure or other assets was purchased in accordance with Article 10.1.1.*

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 the beneficiary) 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 costs of equipment, infrastructure or other assets ***contributed in-kind against payment*** *are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.****]***

[OPTION (in addition to one of the two first options above) for trans-national access to research infrastructure: *As an exception, the beneficiaries must not declare such costs (i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure and other assets) for providing trans-national access to research infrastructure (see Article 16.1).****]***

[OPTION (in addition to one of the two first options above) for virtual access to research infrastructure, unless the work programme explicitly allows capital investments for virtual access to research infrastructure: *As an exception, the beneficiaries must not declare such costs (i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure and other assets) for providing virtual access to research infrastructure (see Article 16.2).****]***

B.3.3 **Costs of other goods and services** (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible, if they are:

(a) purchased specifically for the related additional coordination and networking activities and in accordance with Article 10.1.1 or

(b) contributed in kind against payment and in accordance with Article 11.1.

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

[OPTION to be used for trans-national access to research infrastructure: *Costs of other goods and services* ***for providing trans-national access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.1.1 are met.****]***

[OPTION to be used for virtual access to research infrastructure: *Costs of other goods and services* ***for providing virtual access to research infrastructure*** *are eligible only if also the conditions set out in Article 16.2 are met.****]***

B.3.4 **Capitalised and operating costs of 'large research infrastructure'**[17] ***[OPTION 1 by default:*** *directly used for the related additional coordination and networking activities are eligible, if:*

(a) the value of the large research infrastructure represents at least 75% of the total fixed assets (at historical value in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure[18]*);*

*(b) the beneficiary's methodology for declaring the costs for large research infrastructure has been positively assessed by the Commission ('****ex-ante assessment****');*

(c) the beneficiary declares as direct eligible costs only the portion which corresponds to the duration of the related additional coordination and networking activities and the rate of actual use for the purposes of the additional coordination and networking activities, and

*(d) they comply with the conditions as further detailed in the annotations to the H2020 Grant Agreements.****]***

[OPTION 2 for all topics within calls under Part 'Research Infrastructure' (except for e-Infrastructure): *Not applicable.****]***

[OPTION 3 to be used if foreseen in the work programme: *Not applicable.****]***

B.3.5 **Costs of internally invoiced goods and services** directly used for the action are eligible, if:

(a) they are declared on the basis of a unit cost calculated in accordance with the beneficiary's usual cost accounting practices;

(b) the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

(c) the unit cost is calculated using the actual costs for the good or service recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories.

The actual costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the costs, reasonable and correspond to objective and verifiable information;

(d) the unit cost excludes any costs of items which are not directly linked to the production of the invoiced goods or service.

'Internally invoiced goods and services' means goods or services which are provided by the beneficiary directly for the action and which the beneficiary values on the basis of its usual cost accounting practices.

B.4 **Indirect costs for related additional coordination and networking activities** ***[(not included in Point B.5]***

Indirect costs are eligible if they are declared on the basis of the flat-rate of 25% of the eligible direct costs (see Article 5.2 and Points B.1 to B.3), from which are excluded:

(a) costs of subcontracting *[and][;]*

(b) costs of in-kind contributions provided by third parties which are not used on the beneficiary's premises *[and][;]*

(c) ***[OPTION 1 if Point B.5 applies and the unit cost covers indirect costs:*** *[unit costs under Article 5.2(f) and Point B.5]*[***OPTION 2****: not applicable****]****.***

Beneficiaries receiving an operating grant[19] financed by the EU or Euratom budget cannot declare indirect costs for the period covered by the operating grant, unless they can demonstrate that the operating grant does not cover any costs of the action.

B.5 ***[OPTION 1: [Insert name of specific cost category(ies) that are part of related additional coordination and networking activities][OPTION 2 if no specific cost categories applicable to grant: Specific cost category(ies)]***

[OPTION *1a* ***for specific unit costs (if foreseen by Commission decision and applicable to the grant):*** *[**Insert name of specific cost category**[20]] that are part of related additional coordination and networking activities are eligible, if they correspond to the amount per unit set out in Annex 2a multiplied by the number of actual units, [and if [insert additional eligibility conditions, if any]].****]***

[*same for each specific cost category****]***

[OPTION 2: *Not applicable****]***

[…]

[14] This amount must correspond to 30% for PCP and 50% for PPI of the estimated eligible costs set out in Article 5.2.

[15] For the definition, see Article 2.1(14) of the Rules for Participation Regulation No 1290/2013: '**non-profit legal entity**' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

[16] To be used as an exception, only if justified by the nature of the action and the context of the use of the equipment or assets, if provided for in the work programme.

[17] '**Large research infrastructure**' means research infrastructure of a total value of at least EUR 20 million, for a beneficiary, calculated as the sum of historical asset values of each individual research infrastructure of that beneficiary, as they appear in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure.

[18] For the definition see Article 2(6) of the H2020 Framework Programme Regulation No 1291/2013: '**Research infrastructure**' are facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, e.g. for education or public services. They include: major scientific equipment (or sets of instruments); knowledge-based resources such as collections, archives or scientific data; e-infrastructures such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieve excellence in research and innovation. Such infrastructures may be 'single-sited', 'virtual' or 'distributed'.

[19] 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 ('**Financial Regulation No 966/2012**') (OJ L 218, 26.10.2012, p.1): '**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.

[20] Insert precise name of the cost (as in the Commission decision authorising the use of the unit cost). For example: 'access costs for providing trans-national access to research infrastructure', 'costs for clinical studies', 'costs for energy efficiency measures in buildings'.

1. Additional coordination and networking costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 The beneficiaries may declare the following **types of costs** as costs for additional coordination and networking activities related to the joint call for tender:

- direct personnel costs for additional coordination and networking activities:
  - basic remuneration (basic salary and complements)
  - for non-profit legal entities: additional remuneration ('bonus payments')
  - costs for natural persons working under a direct contract
  - costs of personnel seconded by a third party against payment
  - costs of SME owners without salary
  - costs of beneficiaries that are natural persons not receiving a salary'
  - personnel costs for providing trans-national or virtual access to research infrastructure (if option applies)
- direct costs of subcontracting for additional coordination and networking activities
- other direct costs for additional coordination and networking activities:
  - travel and related subsistence allowances
  - equipment
  - other goods and services and
  - costs of large research infrastructure
- indirect costs for additional coordination and networking activities
- specific cost categories (if option applies).

1.2 All costs must normally be **declared as** actual costs.

Personnel costs (average personnel costs) and costs of internally invoiced goods and services may also be declared as unit cost in accordance with the usual cost accounting practices.

Personnel costs of beneficiaries that are SME owners or natural persons not receiving a salary MUST be declared as the unit cost fixed by Decision C(2013) 8197[117] and set out in Annex 2 and 2a of the GA.

This concerns only *beneficiaries* that are SMEs *(e.g. contracting authorities or contracting entities that are SMEs)*, not PCP/PPI subcontractors that are SMEs.

1.3 The same **eligibility conditions** apply as in the General MGA *(see Article 6 H2020 General MGA)*.

The PCP/PPI MGA has however the **following specificities**:

[117] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf

The costs must be incurred by the beneficiaries for additional coordination and networking activities that are related to the joint call for tender *(e.g. coordination costs for preparing, managing monitoring and following-up the PCP/PPI procurement, costs for other coordination and networking activities to embed the PCP/PPI into a wider set of demand side activities)*.

Examples:

1. *The evaluation of the PCP or PPI tender is subcontracted or undertaken by in-house consultants under the responsibility of the consortium participants.*

2. *Resources or equipment for testing innovative solutions are made available by end-users of the targeted innovative solutions (in the form of action tasks undertaken by linked third parties or as in-kind contributions of third parties).*

3. *Costs for validation and testing of solutions provided by the subcontractors*.

1.4 The same **calculation rules** apply as in the General MGA *(see Article 6 H2020 General MGA)*.

According to General Annex D to the Main Work Programme, the costs of additional coordination and networking activities are eligible up to a maximum amount of 30% (for PCP)/50% (for PPI) of the total requested grant amount. For each GA, this ceiling is fixed in the GA *(see Article 6.2.B)*. Thus, the amount of EU funding for additional coordination and networking activities does NOT change, even if the costs actually incurred for PCP/PPI subcontracting end up being less than initially estimated (*e.g. if the buyers group is able to procure at a better price than it had budgeted*).

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For PCP/PPI actions, generally the same rules on third party involvement apply as in the General MGA *(see Article 8 H2020 General MGA)*.

However, entities contributing financially to the joint procurement budget can only participate as beneficiaries or linked third parties (NOT as other third parties involved in the action). They form the buyers group.

Certain **third party resources** (i.e. purchasing of goods, works or services (Article 10), in-kind contributions (Articles 11 and 12)) are however ONLY allowed for **additional coordination and networking activities**.

> ***Example:*** *Equipment needed for testing and validating solutions is provided by a third party as in-kind contribution.*

By contrast, **subcontracting** (Article 13) is possible both for PCP/PPI subcontracting and related additional coordination and networking activities.

Linked third parties (Article 14) may participate in all activities under the action.

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

13.1 ***[OPTION 1 for PCP: Rules for the pre-commercial procurement of research and development services***

13.1.1 The beneficiaries will award ***subcontracts*** *for the* ***PCP*** *research and development services ('**PCP R&D services**') that are necessary to address the '**common challenge**' set out in Annex 1.*

The subcontracts must be awarded as one single joint procurement by the beneficiaries concerned (i.e. the 'lead procurer' and the 'buyers group').

The lead procurer must be a 'contracting authority' or 'contracting entity' as defined in Directives 2004/18/EC (or 2014/24/EU) and 2004/17/EC (or 2014/25/EU).

The buyers group must constitute a 'total jointly committed budget' for payment of the subcontracts.

The 'buyers group', the 'lead procurer', the services to be subcontracted (for each implementation phase ('PCP phase')), their estimated costs and the estimated financial contribution per beneficiary to the 'total jointly committed budget' ***must be set out in Annex 1****. The estimated costs of PCP subcontracting per beneficiary must be set out in Annex 2.*

[OPTION for classified information: *Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the [Commission][Agency] (see Article 37).****]***

The beneficiaries concerned must — throughout the action —:

- *guarantee equal treatment of tenderers and subcontractors and avoid any restrictions or distortions of competition;*
- *avoid any conflict of interest (see Article 35);*
- *allow for all communications to be made in English (and any additional language(s) they may have chosen).*

The subcontracts for pre-commercial procurement must provide for the following:

- *the ownership, by the subcontractors, of the intellectual property rights on the results that they generate;*
- *the right of the buyers to access results — on a royalty-free basis — for their own use;*
- *the right of the buyers to grant (or to require the subcontractors to grant) non-exclusive licences to third parties to exploit the results — under fair and reasonable conditions — (without the right to sub-licence);*
- *the obligation of the subcontractors to transfer back to the buyers the ownership of intellectual property generated by subcontractors during the PCP, if subcontractors fail to commercially exploit the results within the period set out in the subcontract;*
- *the right of the buyers to publish — at the time of the contract award notice — the identity of the winning tenderers and a project summary provided by the winning tenderers, and to publish — after R&D has finished and after consulting the subcontractors — summaries of the results as well as the identities of the subcontractors that successfully completed the last phase of the PCP.*

*The beneficiaries concerned must ensure that the majority of the research and development work done by the subcontractor(s) (including the work of the main researchers) is located in the EU Member States or associated countries ('****place of performance obligation****').*

*The beneficiaries concerned must **prepare**, **procure** and **implement** the subcontracts in accordance with the following **requirements**:*

*(a) For the '**preparation stage**':*

*(i) agree (in writing) on their internal procedures for carrying out the joint PCP procurement ('**joint procurement agreement**');*

*(ii) make an **open market consultation**, which:*

- *is published — two months in advance — in the Official Journal of the European Union (via a '**prior information notice (PIN)**', drawn up in English and any additional language(s) chosen by the buyers group);*
- *is promoted and advertised widely;*
- *is summarised on the project website and other web-sites requested by the [Commission][Agency], together with a list of Q&As raised during the open market consultation;*

*(iii) prepare '**common tender specifications**'*

*(b) For the '**procurement/tendering stage**':*

*(i) **Step 1**: make a '**contract notice**', which*

- *is published by the lead procurer in the Official Journal of the European Union (in English and any additional language(s) chosen by the buyers group);*
- *specifies that the procurement concerns a pre-commercial procurement that is exempted from Directives 2004/18/EC (or 2014/24/EU) and 2004/17/EC (or 2014/25/EU)[26];*
- *specifies a time-limit for receipt of tenders of at least two months;*
- *allows for the submission of tenders in English (and any additional language(s) chosen by the buyers group);*
- *is promoted and advertised widely;*
- *indicates how potential tenderers can obtain the 'request for tenders';*

*and the **request for tenders** inviting all interested economic operators to tender, which:*

- *identifies the lead procurer, the buyers group and, if applicable, third parties involved in the PCP;*
- *informs potential tenderers about the outcome and list of Q&As of the market consultation (see above);*
- *describes the common challenge (using functional or performance based specifications and taking into account the outcome of the open market consultation);*
- *describes the process for the evaluation and selection of the tenders for the first PCP phase and the intermediate evaluations after each following PCP phase;*
- *describes the practical set-up for the implementation of the subcontracts;*
- *describes the minimum requirements that subcontractors must comply with during the PCP;*

- *describes the arrangements for intellectual property rights, confidentiality, publicity (information about contract award and publication of summaries of R&D results) and rules on applicable law and dispute settlement;*

(ii) ***Step 2:*** *make an* ***evaluation of the tenders****, ranking them, on the basis of the common tender specifications (see above), according to best value for money criteria and ensuring that the price corresponds to market conditions;*

(iii) ***Step 3: award the subcontracts*** *to a minimum of three tenderers offering* ***best value for money*** *and a* ***price corresponding to market conditions****.*

The ***framework agreements*** *(one agreement per selected tenderer) must be signed by the lead procurer and set out the terms and conditions that govern the specific contracts.*

The ***specific contracts*** *(one agreement per selected tenderer and PCP phase) must be signed by the lead procurer and set out the details of the PCP R&D services purchased by each buyer (in particular, their quantity and price);*

(iv) ***Step 4:*** *make a '****contract award notice****' which is published — within 48 days after conclusion of the framework agreements — by the lead procurer in the Official Journal of the European Union (in English and any additional language(s) chosen by the buyers group);*

*(c) For the '****contract implementation stage****':*

(i) monitor that the PCP R&D services are implemented in compliance with the objectives of the action set out in Annex 1;

(ii) **ensure compliance with the planning of resources** *set out in Annex 1 and the estimated budget indicated in Annex 2;*

(iii) ensure payment of the subcontractors.

The beneficiaries concerned must ensure that the right of the Commission [and the Agency], the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) to exercise their rights under Articles 22 and 23 also towards the subcontractors.

13.1.2 In addition, the beneficiaries concerned must ensure that their obligations under Articles 17.1, 18, 34, 35, 37, 36, 38, 39 and 46 also apply to the subcontractors.

The beneficiaries concerned must also ensure that every prior information notice, contract notice or contract award notice published in relation to the subcontracting includes the following disclaimer:

> *"This procurement receives funding under the European Union's Horizon 2020 research and innovation programme under the grant agreement No [number]). The EU is however not participating as a contracting authority in this procurement."****]***

[26] See Article 16(f) of Directive 2004/18/EC replaced by Article 14 of Directive 2014/24/EU, and Article 24(e) of Directive 2004/17/EC replaced by Article 32 of Directive 2014/25/EU..

1. PCP subcontracting

In PCP actions, the beneficiaries award PCP subcontracts for research and development services that are necessary to address a common challenge set out in Annex 1 (PCP R&D services). 'PCP

subcontract' thus means a contract for the purchase of R&D services (identified in Annex 1 as action task).

⚠ For the purposes of the GA, the suppliers selected as a result of the PCP/PPI call for tender are considered 'subcontractors' and the contracts with them are 'subcontracts'. They do NOT become beneficiaries of the GA.

Characteristics of subcontracting:

- Joint subcontracting by some or all of the beneficiaries and linked third parties (buyers group), with a joint procurement in 3 phases

  The **buyers group** is the group that finances and undertakes together the joint PCP procurement (i.e. normally the entities that need the purchased service/solution or central purchasing bodies).

  For PCP/PPI actions, it must normally be made up of:

  – a minimum of 2 public procurers (i.e. 'contracting authorities' or 'contracting entities' as defined in the EU public procurement Directives 2014/24/EU and 2014/25/EU[118])

    Any entity that fits the definition of a contracting authority or contracting entity as defined in those Directives is considered a public procurer — regardless of whether the EU public procurement Directives themselves apply or not.

    Example: *International entities such as European Research Infrastructure Consortia (ERICs) that fit as majority publicly owned entities the public procurement Directives definition of contracting authorities, but to which those Directives do not apply, are considered public procurers that can participate in the buyers group and are eligible for funding under PCP/PPI actions.*

  – that are established in two different EU Member States or H2020 associated countries *(see General Annex D to the Main Work Programme)*.

  This is in addition to the general minimum requirements for participation for Horizon 2020 actions (i.e. minimum of 3 independent legal entities established in different EU Member States or H2020 associated countries; *see General Annexes C and D to the Main Work Programme* — unless the work programme/call allows for the participation of sole participants).

  Procurers that are not public procurers, but provide services of public interest and share the same procurement need may also be part of the buyers group.

  Example: *a group of a minimum of two public hospitals from two different EU Member States or H2020 associated countries could be joined by a private hospital or NGO (e.g. Médecins sans frontiers).*

  The buyers group is NOT open to other types of procurers that are not providing services of public interest, even if they may share the same procurement need *(e.g. private company procurers like IBM or EADS that are not providing hospital services cannot be funded as buyers in the above example of a consortium of hospital procurers, even if they would be interested to procure the same software system as the hospital procurers)*.

  Such other entities may be involved in the action as:

[118] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

- beneficiaries/linked third parties responsible for other action tasks related additional coordination and networking activities *(e.g. certification bodies, end-users)*
- third parties providing in-kind contributions

if they are not potential suppliers of solutions sought for by the procurement and have no other type of conflict of interest.

The PCP procurement is split in **3 phases** (solution design, prototyping, original development and testing of a limited set of 'first' products or services) which are implemented via 3 different specific contracts (under the overall PCP framework agreement).

The buyers group must select multiple competing subcontractors (with a minimum of 3 subcontractors for the first PCP phase). At the end of each phase, an intermediate evaluation will take place to identify the subcontractors that successfully completed the phase. A call-off will be made to select the subcontractors with the best value for money offers for the next phase.

In order to obtain a competitive supply chain as a result of the PCP, the buyers group must plan the budget distribution across the PCP phases so that there is enough budget for minimum 2 subcontractors in the last PCP phase 3.

The tenders for the PCP call for tender must therefore contain:

- a detailed offer for phase 1
- the goals, plans and unit price conditions for phases 2 and 3.

- Concerns **R&D services** addressing a **common challenge** (i.e. a specific procurement need that is part of the mid-to-long-term innovation plans of the buyers group).

The common challenge may have several facets or building blocks, as long as all the beneficiaries in the buyers group share the need for all of them and are willing to co-finance all of them.

If the common challenge is split in several sub-challenges on which different vendors can compete, the minimum requirements of 3 subcontractors for phase 1 and 2 for phase 3 applies per sub-challenge, in order to obtain a competitive supply chain for each sub-challenge.

The procurement must be for an R&D services contract (i.e. a contract with the objective to provide R&D services; *see also General Annex E to the Main Work Programme*).

If required for the provisioning of the R&D services and required by the procurement need of the buyers group, the PCP may include the purchase of supplies *(such as the limited volume of prototypes or first test-products resulting from the R&D)*.

Example: *A traffic authority may need to acquire more environmentally-friendly tarmac that was developed and installed during the PCP on a test strip of the road, because the old tarmac was destroyed during the PCP in order to test the new variant and the traffic authority needs to carry out further testing on the tarmac after the PCP is done.*

This does NOT extend to 'quantity production' or 'supply to establish commercial viability or to recover research and development costs' (— otherwise it will not be a an R&D services contract and it will not be exempted from the WTO GPA[119]).

Supplies can NOT constitute the majority of the contract value.

- All subcontracts paid from one common budget for the procurement (**common jointly-committed budget**)

This budget is based on the financial commitments of the beneficiaries and linked third parties in the buyers group and must correspond to the call-for-tender-budget (i.e. the estimated procurement price = estimated direct costs of PCP subcontracting; *see Articles 4 and 6.2.A*).

[119] PCP procurements are exempted from the WTO GPA (since according to Annex IV of the WTO GPA R&D services are excluded from the scope of the GPA, i.e. both from the national treatment obligation and from the non-discrimination obligation).

- Joint procurement procedure (i.e. joint call for tender, joint evaluation of offers and joint award) is coordinated and led by one beneficiary (**lead procurer**)

  The lead procurer may be part of the buyers group or not (i.e. it may also be a beneficiary that is NOT part of the buyers group).

  Example: *the lead procurer can be a central purchasing body that carries out the procurement for the buyers group, but does not contribute financially to the common jointly committed budget).*

  The lead procurer must be a 'contracting authority' or 'contracting entity' as defined in the EU public procurement Directives 2014/24/EU and 2014/25/EU[120].

- **Subcontracts signed** by the lead procurer, in the name and on behalf of the buyers group

  The lead procurer must be mandated by the buyers group in the joint procurement agreement.

  The subcontracts to be signed are:

  - a framework contract with each selected subcontractor, covering the whole PCP and
  - specific contracts with each selected subcontractor, for each PCP phase.

- **Subcontracts implemented** by the selected subcontractors (PCP implementation)

- **Subcontractors** are **paid** either by the lead procurer or (pro rata) by the members of the buyers group (based on their individual financial contribution to the jointly-committed budget), depending on the choice of the consortium when it submitted the estimated eligible costs *(see Article 4)*.

PCP subcontracting is NOT restricted to a limited part of the action (since the PCP subcontracting is the main goal of PCP actions).

There can only be one PCP per PCP action.

⚠ Article 13.1 contains both additional cost eligibility conditions (in Article 13.1.1) and 'other obligations' (in Article 13.1.2).

2. Additional cost eligibility condition: Procurers, tasks and costs set out in Annexes 1 and 2 — No simplified approval procedure

Annexes 1 and 2 must clearly identify the common challenge (types of R&D services to be procured), the lead procurer, the buyers group and the common jointly-committed budget and the estimated costs per beneficiary, already at the moment of the signature of the GA. Any changes at a later stage *(e.g. after the preparation stage of the project)* are only possible through an amendment; *see Article 55*).

At the end of the preparation stage of the project, the consortium must confirm (in the periodic report; *see Article 20.3*) that the lead procurer has not changed and that the buyers group's commitments to the common jointly-committed budget are still valid — or whether

[120] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

changes are needed, based on the feedback of the preparation stage of the project *(e.g. the open market consultation)*.

For PCP subcontracting, there is NO 'simplified approval procedure' (contrary to the subcontracting of related additional coordination and networking activities; *see Article 13.2*).

3. Additional cost eligibility condition: Place of performance obligation

The majority (i.e. at least 50%) of the total amount of **work** done by the subcontractors for the PCP implementation (including the work of the main researchers) must be **performed in EU Member States** or **H2020 associated countries** (as defined in Article 25 H2020 General MGA).

This includes R&D and operational activities *(e.g. research, development, testing, certifying solutions, etc.)*.

The beneficiaries must require subcontractors to comply with this place of performance obligation, including when subcontractors subcontract work out themselves. This obligation must however be clearly set out in the Framework Agreement *(see below)*.

4. Additional cost eligibility condition: Procurement procedure — Best value for money — Price corresponding to market conditions

The beneficiaries must base the PCP subcontracts on the **best value for money** *(see Articles 10 and 13 H2020 General MGA)*.

The tenders for the PCP call for tender must therefore contain:

- a detailed offer for phase 1
- the goals, plans and unit price conditions for phases 2 and 3.

The offers for the call-offs for phase 2 and 3 must contain the detailed offer for phase 2 and phase 3. The price offered for phase 2 and 3 must be based on the unit prices in the framework agreement

The GA foresees additional rules, i.e. that:

- the price must correspond to **market conditions**

  This means that the price must normally be lower than the exclusive development price (since subcontractors obtain intellectual property ownership rights (IPRs)).

AND

- a **specific procurement procedure** must be followed.

  The main elements of this procedure are as follows:

  - the buyers group and the lead procurer must formalise the PCP in a **joint procurement agreement** that:
    - specifies the working arrangements for the joint procurement *(e.g. division of tasks between the lead procurer and the buyers group; signature of the subcontracts, etc.)*
    - sets out the financial arrangements *(e.g. the contributions of each member of the buyers group to the common jointly-committed budget; arrangements for financial transfers between buyers group and/or lead procurer for carrying out the PCP)*
    - specifies in-kind contributions provided by third parties

  - sets out other rights and obligations of the buyers group and lead procurer *(e.g. allocation of IPR-related rights resulting from the PCP; commitment to provide test environments)*

- the procurement must be preceded by an **open market consultation**

  This open market consultation must be implemented as a 'technical dialogue' as defined in the EU public procurement Directives 2014/24/EU and 2014/25/EU[121].

  A prior information notice (PIN) must be published in the Official Journal of European Union (OJEU) and must be promoted widely, in particular via the websites specified by the Commission/Agency and the H2020 National Contact Points (NCPs).

- the procurement must be based on **common procurement specifications** prepared by the buyers group and the lead procurer

  These specifications must be based on an analysis of the buyers group's needs (i.e. the common challenge) and take into account the feedback from the open market consultation (meaning that it should be refined based on this feedback, if needed).

  They must describe the functionality and performance requirements (including minimum requirements) that solutions must meet, rather than prescribing a specific solution.

- the buyers group and the lead procurer must publish a **contract notice** to launch the **request for tenders**.

  The request for tenders does not have to be published. It can be provided on request.

- the buyers group and the lead procurer must **jointly evaluate** the tenders and make a **joint award** decision.

Beneficiaries have to demonstrate — upon request — that the selection of the subcontractors complied with these rules.

For more information on the tender documents, *see the Guidance — PCP procurement documents [ODT format].*

5. Additional cost eligibility condition: Minimum content of framework agreement and specific contracts

The beneficiaries must conclude a **framework agreement** (with each selected subcontractor) which sets out the framework conditions for all 3 phases of the PCP implementation, including:

[121] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

- the practical set-up of the implementation of the subcontracts, in particular:
  - the number, duration and budget of the PCP phases
  - the minimum number of expected subcontractors per PCP phase
  - the procedure for the intermediate evaluations after each PCP phase (in particular, the evaluation criteria and the weightings)
  - the process for monitoring of on-going R&D work and reporting obligations of subcontractors
  - the procedures for accounting and payments
  - an exclusion of contract renegotiations
  - the role and the rights and obligations of third parties involved in the implementation of the subcontracts
- the minimum requirements that subcontractors must comply with during the PCP implementation, in particular:
  - compliance with the definition of R&D services *(see General Annex E to the Main Work Programme)*
  - the obligation of the subcontractors to ensure that the majority of the R&D work (including the work of the main researchers) is located in the EU Member States or H2020 associated countries (place of performance obligation)
  - additional national requirements, ethical and/or security requirements (if applicable)
- the arrangements for intellectual property rights, in particular:
  - the ownership, by the subcontractors, of the intellectual property rights on the results that they generate
  - the right of the buyers to access to use the results — on a royalty-free basis — for their own internal use *(see General Annex E to the Main Work Programme)*
  - the right of the buyers to grant (or to require the subcontractors to grant) non-exclusive licences to third parties to exploit the results — under fair and reasonable conditions and without the right to sub-licence

    This right serves as a safeguard to ensure a competitive supply chain (during or after the PCP action) in case of problems. It does NOT mean that every subcontractor will always and automatically be obliged to grant non-exclusive licenses to third parties to exploit its results.

    Examples (licences needed): *other providers working for the buyers group need access to the IPR to work for the buyers group; a PCP subcontractor abuses its monopoly situation*

  - the obligation of the subcontractors to transfer results (generated by subcontractors during the PCP implementation) to the buyers, if they fail to commercially exploit the results within the period set out in the framework agreement or use the results to the detriment of the public interest, including security interests *(see General Annex E to the Main Work Programme)*

    This right serves as a safeguard to ensure commercial exploitation in the public interest, in case the subcontractors fail to do so themselves. It will be for exceptional cases.
- the right of the buyers to publish:
  - at the time of the contract award notice: the identity of the winning tenderers and a project summary provided by the winning tenderers
  - after R&D has finished (and after consulting the subcontractors): summaries of the results as well as the identities of the subcontractors that successfully completed the last phase of the PCP

The framework agreement remains binding for as long as subcontractors remain in the PCP (i.e. normally until the PCP subcontractor is no longer selected to continue for the next PCP phase).

The beneficiaries must conclude **specific contracts** (with each selected subcontractor and for each PCP phase) must set out the specific conditions applicable to each PCP phase, in particular:

- the details of the PCP R&D services purchased by each buyer
- quantity and
- price.

The phase 1 specific contract is signed (together with the framework agreement) with all the subcontractors selected for phase 1. After phase 1 is finished, a call-off to award the phase 2 specific contracts will be organised among the subcontractors who have successfully completed phase 1. After phase 2 is finished, a call-off to award at least two phase 3 contracts will be organised among the subcontractors who have successfully completed phase 2.

6. Additional cost eligibility condition: Compliance with the planning of resources

To ensure compliance with the resource planning (as set out in Annex 1), the beneficiaries must ensure the timely allocation of resources in order to implement the PCP (including allocating sufficient time and resources for testing solutions in real-life operational end-user environments).

Example: *testing facilities or equipment to be provided by the buyers group (or other beneficiaries or third parties)*.

7. 'Other obligation': Compliance with national procurement rules

The **EU public procurement Directives** 2014/24/EU, 2014/25/EU[122] and 2009/81/EC do **NOT apply** to the pre-commercial procurement of R&D services (because such services are exempted[123]).

However, beneficiaries that are 'contracting authorities' or 'contracting entities' (within the meaning of the EU public procurement Directives 2014/24/EU and 2014/25/EU[124]; *see Article 13 H2020 General MGA*) must implement the PCP procurement in compliance with provisions in **national laws on public procurement** that may be applicable to this type of R&D services contracts.

[122] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

[123] *See Article 14 of Directive 2014/24/EU, Article 32 of Directive 2014/25/EU and Article 13(f)(j) of Directive 2009/81/EC.*

[124] Directive 2009/81/EC uses the definitions of Directives 2014/24/EU and 2014/25/EU *(see Article 1(17) of Directive 2009/81/EC)*.

[OPTION 2 for PPI: Rules for procurement of the PPI innovative solution(s)

*13.1.1 The beneficiaries will award **subcontracts** for procuring the '**PPI innovative solution(s)**' that are necessary to address the '**common challenge**' set out in Annex 1.*

The subcontracts must be awarded in one single joint (or several coordinated) procurement procedure(s) by the beneficiaries concerned (i.e. the 'buyers group' and the 'lead procurer').

The lead procurer must be a 'contracting authority' or 'contracting entity' as defined in Directives 2004/18/EC (or 2014/24/EU) and, 2004/17/EC (or 2014/25/EU).

*The 'buyers group', the 'lead procurer', the innovative solution(s) and their estimated cost **must be set out in Annex 1**. The estimated cost of PPI subcontracting per beneficiary must be set out in Annex 2.*

[OPTION for classified information:** Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the [Commission][Agency] (see Article 37).**]

The beneficiaries concerned must — throughout the action —:

- *guarantee equal treatment of tenderers and subcontractors and avoid any restrictions or distortions of competition;*
- *avoid any conflict of interest (see Article 35);*
- *allow for all communications (with potential tenderers, tenderers and subcontractors) to be made in English (and any additional language(s) they may have chosen).*

Participation in PPI tendering procedures must be open on equal terms to tenderers from EU Member States, associated countries and other countries with which the EU has an agreement in the field of public procurement. If the WTO Government Procurement Agreement applies, PPI subcontracts must also be open to tenderers from States that have ratified this agreement.

*The beneficiaries concerned must **prepare**, **procure** and **implement** the subcontracts in accordance with the following **requirements**:*

*(a) For the '**preparation stage**':*

*(i) identify and agree (in writing) on their internal procedures for carrying out the joint (or coordinated) PPI procurement(s) ('**joint procurement agreement**');*

*(ii) **[OPTION 1 for PPI actions that are not limited to the procurement of the limited set of prototypes and/or test products developed during a preceding PCP action:** make an '**open market consultation**' inviting all interested economic operators to participate, which*

- *is published — two months in advance —by the lead procurer in the Official Journal of the European Union (via a '**prior information notice (PIN)**', drawn up in English and any additional language(s) chosen by the buyers group);*
- *is promoted and advertised widely;*
- *is summarised on the project website and other web-sites requested by the [Commission][Agency], together with a list of Q&As raised during the open market consultation;**]***

[OPTION 2:** not applicable**]

*(iii) prepare **common tender specifications**, based on the needs analysis of the buyers group;*

*(b) For the '**procurement/tendering stage**':*

[OPTION 1 for PPI actions that are <u>not</u> limited to the procurement of a set of prototypes and/or test products developed during a preceding PCP action:

*(i) **Step 1**: make one (or several) '**contract notice**'(s), which:*

- *are published by the lead procurer (or beneficiary) in the Official Journal of the European Union (in English and any additional language(s) chosen by the buyers group);*
- *specify a time-limit for receipt of tenders that is sufficient for the preparation of innovative bids.*

  The call(s) for tender must remain open for at least 60 days.

  The restricted procedure with shortened time-limit for receipt of tenders may not be used;
- *allow for the submission of tenders in English (and any additional language(s) chosen by the buyers group);*
- *are promoted and advertised widely;*
- *indicate how potential tenderers can obtain the tender documentation and the 'PPI request(s) for tenders';*

*and the **tender documentation** and **PPI request for tenders**.*

*(ii) **Step 2**: make one (or several) **evaluation(s) of the tenders**, ranking them, on the basis of the common tender specifications (see above), according to **<u>best value for money</u>** criteria and ensuring that the price corresponds to **<u>market conditions</u>**;*

*(iii) **Step 3**: **award the <u>subcontract(s)</u>** to the tenderer(s) offering best value for money and a price corresponding to market conditions;*

*(iv) **Step 4**: make one (or several) '**contract award notice**'(s), which are published by the beneficiary or lead procurer in the Official Journal of the European Union (in English and any additional language(s) chosen by the buyers group);**]***

[OPTION 2 for PPI actions that are limited to the procurement of the set of prototypes and/or test products developed during a preceding PCP action:

*(i) **Step 1**: make one (or several) **request(s) for offers** from at least **three providers**, which — in accordance with the negotiated procedure without publication as provided for in Directives 2004/18/EC (or 2014/24/EU) and 2004/17/EC (or 2014/25//EU)[271] —:*

- *use technical specifications that are functional or performance based;*
- *avoid selection criteria based on restrictive qualification requirements or disproportionate financial guarantees;*
- *specify award criteria based on best value for money*

- *describe the practical set-up for the implementation of the subcontracts, in particular:*
  - *the types of subcontracts that will be concluded with successful tenderers (in particular whether a framework agreement with multiple economic operators will be used or not);*
- *describe the arrangements for intellectual property rights*
- *describe the arrangements for liability for damages;*

(iv) ***Step 2:*** *make one (or several)* ***evaluation(s) of the tenders*** *ranking them, on the basis of the common tender specifications (see above), according to* ***best value for money*** *criteria and ensuring that the price corresponds to* ***market conditions****;*

(v) ***Step 3: award the subcontracts*** *to a minimum of three tenderers offering best value for money and a price corresponding to market conditions.****]***

*(c) For the '****contract implementation stage****':*

(i) monitor that the PPI innovative solutions are implemented compliance with the objectives of the action set out in Annex 1;

(ii) ensure ***compliance with the planning of resources*** *set out in Annex 1 and the estimated budget indicated in Annex 2;*

(iii) ensure payment of the subcontractors.

The beneficiaries concerned 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 22 and 23 also towards the subcontractors.

13.1.2 In addition, the beneficiaries concerned must ensure that their obligations under Articles 17.1 18, 34, 35, 36, 37, 38, 39 and 46 also apply to the subcontractors.

Beneficiaries acting as contracting authorities within the meaning of Directive 2004/18/EC (or 2014/24/EU) or as contracting entities within the meaning of Directive 2004/17/EC (or 2014/25/EU) must comply with the applicable national law on public procurement.

The beneficiaries concerned must also ensure that every prior information notice, contract notice or contract award notice published in relation to the subcontracting includes the following disclaimer:

> *'This procurement receives funding under the European Union's Horizon 2020 research and innovation programme under the grant agreement No [number]). The EU is however not participating as a contracting authority in this procurement.'****]***

[27] See Articles 28 and 31(2)(a) of Directive 2004/18/EU replaced by Article 26 and 32(3)(a) of Directive 2014/24/EU and Article 40(3)(b) of Directive 2004/17/EC replaced by Article 50(b) of Directive 2014/25/EU.

1. PPI subcontracting

For PPI actions, beneficiaries award PPI subcontracts for procuring the innovative solutions that are necessary to address the common challenge set out in Annex 1 (PPI innovative solution(s)). 'PPI subcontract' thus means a contract for the purchase of innovative solutions (identified in Annex 1 as an action task).

The requirements for PPI subcontracting are generally similar as for PCP subcontracting.

However, PPI subcontracting has the **following specificities**:

The PPI procurement covers 2 phases (deployment and operational validation) — but there is no requirement to split the PPI procurement for those 2 phases in different contracts.

The beneficiaries may choose between implementing *one single* or *several coordinated* PPI procurements.

For joint procurements, there is one joint PPI call for tender launched by the lead procurer and one joint evaluation of offers.

For coordinated procurements, there are several separate PPI procurements carried out individually by the different procurers in the buyers group.

Moreover, the buyers group may select one or more subcontractors.

The common challenge does NOT concern R&D services, but the **supply** of **innovative goods** or **services**. The buyers group acts as a launch customer (early adopter) of innovative solutions that are not yet available on a large-scale commercial basis.

PPI cannot include the procurement of R&D. Only procurement procedures that do not involve the procurement of R&D can be used for PPI *(e.g. innovation partnership procedure)*.

Each PPI action focuses on one concrete common challenge and requires innovative solutions that are to a significant extent similar across countries, making it sensible to procure them together (i.e. the core functionality and performance characteristics must be the same; there may be additional local functionalities — due to differences in the local context of each individual procurer).

Also, there is a common budget for the procurement (**common jointly-committed budget**) only if the buyers group would like to centralise payments. Each buyer may alternatively manage a separate budget for the innovative solutions it buys.

Finally, the subcontracts are **not necessarily signed** by the **lead procurer**; there is not necessarily a **framework agreement**.

The buyers group may choose between direct subcontracts or a framework agreement with specific contracts (with each selected subcontractor).

For joint procurements:

- the buyers group may mandate the lead procurer — in the joint procurement agreement — to sign the framework agreements and/or the specific contracts/direct subcontracts
- if there is no mandate, the general rule is that:
  - framework agreement(s) must be signed by all members of the buyers group together
  - specific contracts must be signed by each buyer individually (for the innovative solution(s) it buys).

PPI subcontracting is not restricted to a limited part of the action (since the PPI subcontracting is the main goal of PPI actions).

⚠ Article 13.1 contains both additional cost eligibility conditions (in Article 13.1.1) and 'other obligations' (in Article 13.1.2).

2. Additional cost eligibility condition: Procurers, tasks and costs set out in Annexes 1 and 2 — No simplified approval procedure

Annexes 1 and 2 must clearly identify the common challenge (type of innovative solutions to be procured), the lead procurer, the buyers group, and the estimated costs per beneficiary, already at the moment of the signature of the GA. Any changes at a later stage *(e.g. after the preparation stage of the project)* are only possible through an amendment; *see Article 55*).

At the end of the preparation stage of the project, the consortium must confirm (in the periodic report; *see Article 20.3*) that lead procurer has not changed and that the buyers group's commitments to the budget for carrying out the PPI are still valid — or whether changes are needed, based on the feedback of the preparation stage of the project *(e.g. the open market consultation)*.

For PPI subcontracting, there is NO 'simplified approval procedure' (contrary to the subcontracting of related additional coordination and networking activities; *see Article 13.2*).

3. Additional cost eligibility condition: Procurement procedure — Best value for money — Price corresponding to market conditions

Like for PCP subcontracts:

- the beneficiaries must base the PPI subcontracts on the **best price-quality ratio**
- the price must correspond to **market conditions**

AND

- a **specific procurement procedure** must be followed.

  The main elements of this procedure are as follows:

  - the buyers group and lead procurer must formalise the PPI in a **joint procurement agreement** that:
    - specifies the working arrangements *(e.g. division of tasks between the lead procurer and the buyers group; use of a framework agreement or not; signature of subcontracts, etc.)*
    - sets out the financial arrangements *(e.g. budget for the procurement committed per member of the buyers group; arrangements for financial transfers — if any — between members of the buyers group and/or lead procurer for carrying out the PPI)*
    - specifies in-kind contributions provided by linked third parties
    - sets out other rights and obligations of the buyers group and lead procurer *(e.g. IPR-related rights, commitments to provide test environments)*
  - the procurement must normally be preceded by an **open market consultation** (— unless the PPI is limited to procuring a limited set of prototypes or test products resulting from a previous PCP action carried out by the same procurers).

    The open market consultation must be implemented as a 'technical dialogue' as defined in the EU public procurement Directives 2014/24/EU and 2014/25/EU[125].

[125] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:

A prior information notice (PIN) must be published in the Official Journal of the European Union and must be promoted widely, in particular via the websites specified by the Commission/Agency and the H2020 National Contact Points (NCPs).

The PIN must contain information on:

- the expected launch date for the call for tender

  This date must give potential tenderers sufficient time to adapt their production chain to reach the required functionality or performance requirements.

- whether verification of the market's readiness to deliver the requested quality/price (*e.g. via conformance testing, certification or quality labelling of solutions*) is planned before committing to procure and, if so, at what point in the process.

- the buyers group and the lead procurer must prepare '**common procurement specifications**

  The specifications must be based on an analysis of the buyers group's needs (i.e. the common challenge) and — if there was an open market consultation — take into account the feedback from that consultation.

  They must describe the functionality and performance requirements that solutions must meet, rather than prescribing a specific solution.

- the buyers group and the lead procurer must publish a **contract notice** to launch the **request for tenders** (— unless the PPI is limited to procuring a limited set of prototypes or test products resulting from a previous PCP action carried out by the same procurers)

  The request for tenders should specify the arrangements for intellectual property rights *(see below)* and the buyers' right to publish summaries of the results and the subcontractors' identities.

  The request for tenders does not have to be published. It can be provided on request.

  For PPI limited to procuring a limited set of prototypes or test products resulting from a previous PCP action carried out by the same procurers, a request for offers from at least 3 providers (including the providers that successfully completed the last PCP phase in the PCP action) is sufficient.

- the buyers group and the lead procurer must **jointly evaluate** the tenders and make a **joint award** decision.

  In case of framework contracts/agreements, there may be multiple award decisions for different specific contracts that may be taken at the appropriate points in time during the framework contract/agreement by the procurers concerned.

  Example: *for contracts with a number of phases (such as design and build contracts) or contracts where different parts of the solution corresponding to different lots that need to be deployed at different times and/or by different procurers.*

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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

Beneficiaries have to demonstrate — upon request — that the selection of the subcontractor complied with these rules.

For more information on the tender documents, *see the Guidance — PPI procurement documents [ODT format].*

4. Additional cost eligibility condition: Minimum content of subcontracts

The beneficiaries must conclude subcontract(s) that specify:

- the practical set-up of the implementation of the subcontracts, in particular:
  - the process for monitoring of on-going work and reporting obligations of subcontractors
  - the role and the rights and obligations of third parties involved in the PPI
  - the procedures for accounting and payments
  - an exclusion of contract renegotiations
- the minimum requirements that subcontractors must comply with during the PPI implementation, in particular:
  - implementation of the innovative solutions in accordance with the objectives of the action
  - additional national requirements, ethical and/or security requirements (if applicable)
- the arrangements for intellectual property rights (IPRs), in particular:
  - the ownership by the subcontractor(s) of the intellectual property rights on the results they generate — except in duly justified cases *(e.g. if the party that produced the results is not able to exploit them)*

  The intellectual property provisions described here are the minimum requirements that must be respected. Beneficiaries may — if appropriate — specify additional intellectual property provisions *(e.g. regarding access to background, licensing etc.)* if these:
    - do not conflict with their obligations under other Articles and
    - maximise the incentives for both beneficiaries and subcontractors to use, widely exploit and commercialise the results
- the right of the buyers to publish:
  - at the time of the contract award notice: the identity of the winning tenderer(s) and a project summary provided by the winning tenderer(s)
  - after the contract(s) has(have) finished (and after consulting the subcontractor(s)): summaries of the results as well as the identities of the subcontractor(s)
- the specific conditions for each buyer, in particular:
  - details of the innovative solutions purchased by each buyer
  - quantity and
  - price.

If the beneficiaries choose a framework agreement with specific contracts (for the innovative solutions procured by each buyer), the specific conditions for each buyer must be in the specific contracts (and the rest in the framework agreement).

5. Additional cost eligibility condition: Compliance with the planning of resources

To ensure compliance with the resource planning (as set out in Annex 1), the beneficiaries must ensure the timely allocation of resources in order to implement the PPI (including allocating sufficient time and resources for testing solutions in real-life operational end-user environments).

Example: *testing facilities or equipment to be provided by the buyers group (or other beneficiaries or third parties)*.

6. 'Other obligation': Compliance with national procurement rules

Contrary to PCP, the **EU public procurement Directives** 2014/24/EU, 2014/25/EU[126] and 2009/81/EC normally **apply** to PPI procurements.

Therefore, the beneficiaries that are 'contracting authorities' or 'contracting entities' (within the meaning of Directives 2014/24/EU and 2014/25/EU[127]; see *Article 13 H2020 General MGA*) must — like in the General MGA — **also** comply with the applicable **national law on public procurement**.

[126] New directives in force since 2016:
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Old directives:
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, 30.4.2004, p. 114).
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, 30.4.2004, p. 1).

[127] Directive 2009/81/EC uses the definitions of Directives 2014/24/EU and 2014/25/EU*(see Article 1(17) of Directive 2009/81/EC)*.

13.2 Rules for subcontracting of related additional coordination and networking activities

13.2.1 If necessary to implement the action, the beneficiaries may award subcontracts for the 'related additional coordination and networking activities' described in Annex 1.

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 35).

*[**OPTION:** In addition, if the value of the subcontract to be awarded exceeds EUR […], the beneficiaries must comply with the following rules: […].[28]]*

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 *[Commission][Agency]* may however approve subcontracts not set out in Annex 1 and 2 without amendment according to Article 55, if:

- they are specifically justified in the periodic or final 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.

*[**OPTION for classified information:** Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the [Commission][Agency] (see Article 37).]*

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 22 and 23 also towards their subcontractors.

13.2.2 In addition, the beneficiaries must ensure that their obligations under Articles 35, 36, 38, and 46 also apply to the subcontractors.

Beneficiaries acting as contracting authorities within the meaning of Directive 2004/18/EC (or 2014/24//EU) or as contracting entities within the meaning of Directive 2004/17/EC (or 2014/25/EU) must comply with the applicable national law on public procurement.

13.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under Article 13.1.1 or 13.2.1, the costs related to the subcontract concerned will be ineligible (see Article 6) and will be rejected (see Article 42).

If a beneficiary breaches any of its obligations under Article 13.1.2 or 13.2.2, the grant may be reduced (see Article 43).

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

[28] If the authorising officer decides to set specific rules, they should have due regard for the principle of proportionality taking into account the value of the contracts and the relative size of the EU contributions in relation to the total cost of the action and the risk. Specific rules must be based on the rules contained in the Financial Regulation. Simply citing the FR without specifying the applicable provisions should be avoided. Specific rules may only be set for the award of contracts of a value higher than EUR 60 000. The authorising officer may set a threshold higher than EUR 60 000 on the basis of a risk assessment.

1. Subcontracting of related additional coordination and networking activities

For the subcontracting of related additional coordination and networking activities, the same rules apply as in the General MGA *(see Article 13 H2020 General MGA)*.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must submit:

- 5 days before its publication: a copy of the prior information notice (PIN) (see Article 13);
- 30 days before its publication: a copy of the contract notice (see Article 13);
- at the end of the tender evaluation ***[OPTION for PCP:*** *(and after the intermediate evaluations that precede the start of each new PCP phase (see Article 13))****]***:
    - **information on the total number of bids received**, in particular the data on the winning tenderer(s) and abstracts of the winning tenders, for publication and evaluation purposes;
    - **information on the evaluation of tenders**: the final ranking list of the selected projects, final scores and qualitative assessment per evaluation criterion for each received bid, minutes of the evaluation meeting;
    - ***[OPTION for PCP: an assessment by the buyers group of the results achieved by each participating tenderer*** *in the previous PCP phase (except for the initial evaluation of tenders at the start of the PCP)****];***
- ***[OPTION 1 by default (two pre-financing payments):*** *the coordinator must submit in month [**Y**] a progress report containing:*
    - *a '**periodic summary technical report**' for publication by the [Commission][Agency];*
    - *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;****]***

  [OPTION 2 in case of three pre-financing payments: *not applicable;****]***
- at the end of the action: **information on each subcontract financed by the procurement**, including data on each contractor that participated in the procurement, and overview of the results, for publication and evaluation purposes.

  This must include an assessment by the buyers group, based on the validation of solutions, of the final results of each participating tenderer in terms of achieving the performance and functionality requirements of the common tender specifications;
- any **other deliverables** identified in Annex 1, in accordance with the timing and conditions set out in it.

[*In addition, the beneficiaries must:*

- *[**OPTION 1 for PCP:** at the end of the action: give a demonstration to the [Commission][Agency] of the test products resulting from the procured research and development services.]*
- *[**OPTION 2 for PPI:** at the end of the action: give a demonstration to the [Commission][Agency] of the innovative solution(s).]****]***

19.2 Consequences of non-compliance

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

1. Deliverables: Information on the total number of bids received — Information on the evaluation of tenders — Information on each subcontract financed — Assessment of the results

When & What? For PCP/PPI actions, the coordinator must — after the end of the tender evaluation (and, for PCP actions, also after the evaluation for each PCP phase) — submit to the Commission/Agency information on:

- the total number of bids received
- the evaluation of tenders and
- the winning tenderer(s) and abstracts of the winning tenders (using the following template [ODT])

The information must be complemented by the coordinator at the end of the action (and, for PCP actions, also at the end of each PCP phase) by submitting an assessment of the results and conclusions (using the following template [ODT]).

How? The information must be submitted via the Participant Portal Continuous Reporting Module.

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The coordinator must submit to the *[Commission][Agency]* (see Article 52) the reports set out in this Article. These reports include the requests for payments and must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

20.2 Reporting periods

[OPTION 1 by default (two pre-financing payments): *The action is divided into the following '**reporting periods**':*

- *RP1: from month 1 to month [X[38]]*
- *RP2: from month [X+1] to [the last month of the project]**]***

[OPTION 2 in case of three pre-financing payments: *The action is divided into the following '**reporting periods**':*

- *RP1: from month 1 to month [X[39]]*
- *RP2: from month [X+1] to month [Y]*
- *RP3: from month [Y+1] to [the last month of the project]**]***

20.2a <u>Periodic reports</u> — Requests for second *[and third]* pre-financing payment*[s]*

The coordinator must submit a periodic report within 60 days following the end of the first 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 other 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.

The report must detail the exploitation and dissemination of the results and — if required in Annex 1 — an updated '**plan for the exploitation and dissemination of the results**'.

The report must indicate the communication activities[.][;]

[OPTION for trans-national access to research infrastructure: *The report must detail the access activity, indicating the members of the selection panel, the selection procedure, the exact amount of access provided to the user groups, the description of their work, and information on the users (including names, nationality and home institutions);**] [OPTION for virtual access to research infrastructure:*** *The reports must detail the access activity, with statistics on the virtual access provided in the period, including quantity, geographical distribution of users and, whenever possible, information/statistics on scientific outcomes (publications, patents, etc.) acknowledging the use of the infrastructure;**]***

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

(iv) the answers to the '**questionnaire**' covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements.

(b) **call for tender documents**, including the contract notice, invitation to tender, procurement contracts;

(c) a **report on the outcome of the preparation phase** of the procurement (e.g. the open market consultation) and their impact on the call for tender;

(d) from each beneficiary participating in the joint procurement, a formal and duly signed '**commitment on availability of resources**' (see Annex 7), and

(e) a '**statement on the use of the first pre-financing payment**' (see Annex 8), including the **request for a second pre-financing payment**.

The coordinator must certify that the information provided is full, reliable and true; and it can be substantiated by adequate supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22).

[OPTION in case of three pre-financing payments: *The coordinator must submit a periodic report within 60 days following the end of the second reporting period.*

The periodic report must include the following:

*(a) a **periodic technical report** (see point (a) above) and*

*(b) a **statement on the use of the second pre-financing payment**, including the **request for a third pre-financing payment**.*

*The coordinator must certify that the information provided is full, reliable and true; and it can be substantiated by adequate supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22).**]***

20.3 Requests for interim payments

Not applicable.

20.4 Final report — Request for payment of the balance

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 exploitation and dissemination;

(ii) the conclusions on the action, and

(iii) the socio-economic impact of the action;

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

(i) an '**individual financial statement**' (see Annex 4) from each beneficiary *[and from each linked third party]*, for all reporting periods.

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

The beneficiaries *[and linked third parties]* must declare all eligible costs, even if — for actual costs, unit costs 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 *[Commission][Agency]*.

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

Each beneficiary *[and each linked third party]* must **certify** that:

- the information provided is full, reliable and true;
- the costs declared are eligible (in particular, that the costs for subcontracts comply with the conditions in Article 13);
- the costs can be substantiated by adequate records and supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22), and
- all the receipts have been declared (see Article 5.3.3);

(ii) an **explanation of the use of resources** and the information on subcontracting (see Article 13) and in-kind contributions provided by third parties (see Articles 11 and 12) from each beneficiary *[and from each linked third party*;

(iii) ***[OPTION 1 if the JRC is a beneficiary:*** *information on the amount of payment of the balance to be paid by the [Commission][Agency] to the Joint Research Centre (JRC)*;***][OPTION 2:*** *not applicable;****]***

(iv) a '**summary financial statement**' , created automatically by the electronic exchange system, consolidating the individual financial statements and including the **request for payment of the balance**;

(v) a '**certificate on the financial statements**' (drawn up in accordance with Annex 5) for each beneficiary *[and for each linked third party]*, if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices (see Article 5.2 and Article 6.2).

[…]

[38] Month X should be the end of the preparation phase and submission of second pre-financing request.
[39] Month X should be the end of the preparation phase and submission of second pre-financing request.

1. Reports

When & What? For PCP/PPI actions, the coordinator has to submit — after the first reporting period (and, if there are 3 pre-financing payments, also after the second reporting period) — a **periodic technical report** with information on the technical implementation.

NO financial reporting during the action (i.e. no financial statements before the final report). The coordinator only has to sign and submit a statement on the use of the previous pre-financing instalment (which includes also the request for further pre-financing payments; only the first pre-financing payment is automatic; *see Annex 7*)

List of documents for the periodic report(s):

- explanation of the work carried out
- overview of the progress
- summary for publication
- questionnaire (i.e. the structured information requested)
- call for tender documents (including contract notice, invitation to tender and procurement contracts)
- report on outcome of the preparation phase *(e.g. open market consultation)*
- commitment on availability of funds (Annex 7)

  This ensures that the PCP/PPI subcontracting costs are covered.
- statement on the use of the previous pre-financing instalment (Annex 8)

At the end of the action, the coordinator has to submit a final report, with both a technical and a financial part.

How? Each (periodic or final) report must be **prepared** by the **coordinator** and the **beneficiaries together**, directly in the Participant Portal).

2. Reporting periods

Normally, PCP/PPI actions are divided into 2 reporting periods (with 2 pre-financing payments; *see Article 21*). The first reporting period corresponds to the preparation of the joint procurement; the second reporting period corresponds to the implementation and follow-up of the joint procurement.

Actions will exceptionally be divided into 3 reporting periods (with 3 pre-financing payments), if the Commission/Agency does not have sufficient payment credits to pay the entire amount as a second pre-financing payment.

The first (and, if there are 2 pre-financing payments, also the second) reporting period triggers a periodic report.

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

The following payments will be made to the coordinator:

- a **first pre-financing** payment;
- a **second pre-financing** payment, on the basis of the request for a second pre-financing payment (see Article 20);
- *[a **third pre-financing** payment, on the basis of the request for a third pre-financing payment (see Article 20);]*
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20)

21.2 Pre-financing payments — Amount — Amount retained for the Guarantee Fund

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 *[Commission][Agency]* will — within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest — make a first pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Article 48 applies.

From this amount, an amount of EUR [**insert amount** (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the *[Commission][Agency]* and transferred into the '**Guarantee Fund**'.

The *[Commission][Agency]* will — within 60 days after receiving the request (see Article 20) — make a second pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)] except if Articles 47 or 48 apply.

[OPTION in case of three pre-financing payments:** The [Commission][Agency] will — within 60 days after receiving the request (see Article 20) — make a third pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Articles 47 or 48 apply.**]

If the statement on the use of the previous pre-financing payment shows that less than 70% of the previous payment has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70% threshold and the amount used.

[OPTION if the JRC is a beneficiary:** The parts of the pre-financing payments related to the Joint Research Centre (JRC) ([**insert amounts** (insert amounts in words)] are not paid to the coordinator, but kept by the [Commission][Agency] for the JRC.**]

21.3 Interim payments — Amount — Calculation

Not applicable

[…]

21.5 Notification of amounts due

When making payments, the *[Commission][Agency]* will formally notify to the coordinator the amount due, specifying whether it concerns the second *[or third]* pre-financing 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 43 and 45.

[...]

1. Payments — No interim payments

Normally, PCP/PPI actions are divided into 2 reporting periods *(see Article 20.2)* with 2 pre-financing payments (— unless the action is exceptionally divided into 3 reporting periods with 3 pre-financing payments because of insufficient payment credits).

There are NO interim payments, but the second pre-financing payment (after the end of the first reporting period, i.e. after the evaluation of the preparation stage of the PCP/PPI procurement) provides beneficiaries with the necessary funds to launch the PCP/PPI procurement.

The second (or third) pre-financing payment is NOT automatic but must be requested by the coordinator via a statement on the use of the previous pre-financing payment *(see Article 20)*.

In this statement, the beneficiaries must simply declare how much of the previous pre-financing was used up, not how much costs were incurred (since PCP/PPI pre-financing is NOT linked to financial reporting).

The balance is paid when the action ends (after the submission of financial reports).

2. Amount of pre-financing payments

How much? Typically (and depending on the availability of EU budget credits), the amounts of the pre-financing payments for PCP/PPI actions are as follows:

- for the first pre-financing payment: the percentage of the maximum grant amount foreseen for the additional networking and coordination activities related to the preparation of the call for tender
- for the second pre-financing payment: a maximum of 90% (general limit for pre-financing payments; *see Article 21.2 H2020 General MGA*) minus the amount of the first pre-financing payment).

If the GA provides for a third pre-financing payment, the amounts will be adapted.

The second/third pre-financing payment will be **reduced**, if — according to the statement on use of the previous pre-financing instalment — the previous pre-financing was **not fully used**:

- if 70% or more of the first/second pre-financing has been used: the second/third pre-financing is paid in full
- if less than 70% of the first/second pre-financing has been used: the second/third pre-financing will be reduced by an amount equal to the difference between the percentage actually used and 70%.

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

22.1 Checks, reviews and audits by the *[the Agency and the]* Commission

[…]

22.1.2 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), compliance with the obligations under the Agreement and continued scientific or technological relevance of the action.

Reviews may be started **up to two 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 10 to 16), 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.

1. Technical reviews

For PCP/PPI actions, the Commission/Agency may in particular carry out technical reviews at key milestone points during the action (*e.g. for PCP actions, at the transition from one PCP phase to the next)*.

VII. EJP Cofund MGA

VII.1 Background information and approach

The EJP Cofund Model Grant Agreement is used for European Joint Programme Cofund actions only.

The EJP Cofund MGA follows the General MGA for numbering and content, except for the following:

The H2020 MGA EJP Cofund deviates from the General MGA as follows:

- Article 3 (duration of EJP Cofund actions: 60 months)
- Article 5.2 (EJP Cofund specific reimbursement rate)
- Article 16 (provision on access to research infrastructures not applicable)
- Article 19 (EJP Cofund specific deliverables)
- Article 20.2, 20.2a, 20.3 (EJP Cofund specific reporting provisions)
- Article 21.1, 21.2, 21.5 (EJP Cofund specific payment provisions)

- Annex 7 Annual work plan for the next year
- Annex 8 Model for the statement on the use of the previous pre-financing payment

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that differ only in presentation *(e.g. Article 16, Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for EJP Cofund actions are added:

- Article 2 (EJP Cofund actions)
- Article 4.1 (EJP Cofund budget categories)
- Article 6 (EJP Cofund eligible and ineligible costs)
- Article 6.2.D.2 and F (Euratom Fusion EJP Cofund action durable equipment option and specific categories of costs)
- Article 8 (EJP Cofund rules on third party involvement).

VII.2 H2020 MGA EJP Cofund: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]

ARTICLE 2 — ACTION TO BE IMPLEMENTED *[— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]*

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

[OPTION for complementary grants if foreseen in the work programme: *The grant is a '**complementary grant**' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- *[insert number] [insert acronym]*
- *[insert number] [insert acronym]].**]***

[OPTION for joint actions (joint call with a third country or an international organisation)*: The action is a '**jointly funded action**' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.**]***

1. EJP Cofund actions

What? EJP Cofund funds:

- a joint programme of activities by coordinated national research and innovation programmes (— ranging from research and innovation to coordination and networking activities and including training, dissemination and financial support to third parties).

EJP does NOT fund individual projects or coordination networks.

Normally, EJP Cofund grants are multi-beneficiary grants; exceptionally they can be *mono*-beneficiary grants for 'sole participants' *(see General Annex D to the Main Work Programme)*.

EJP Cofund actions are funded in all Parts of Horizon 2020 and the Euratom Research and Training Programme *(e.g. NFRP7–2015; Fusion programme Cofund action (FEJP) in section B.1 Euratom Work Programme 2014-2015)*.

For more information on EJP Cofund actions, *see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

For more information on the conditions for participation and funding, *see the Online Manual or the General work programmes and the call and topics pages of the call.*

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The **duration of the action** will be **60 months** as of *[**OPTION 1 by default:** the first day of the month following the date the Agreement enters into force (see Article 58)] [**OPTION 2 if needed for the action:** [insert date]]*[7] ('**starting date of the action**').

[7] 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 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, except in duly justified exceptional cases as provided for in the basic act and the work programme (Article 130 FR).

1. Action duration

For EJP Cofund actions, the action duration is normally **60 months**.

If implementation of the action is justifiably delayed, the consortium may request an extension (i.e. request an amendment extending the action duration; *see Article 55*). The duration can however NOT exceed 72 months.

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 linked third party)]* and **budget category** (see Articles 5, 6, *[and 14]*). ***[OPTION to be used if Article 9 or 14a applies:*** *It also shows the estimated costs of the beneficiaries not receiving EU funding (see Article 9)[and][international partners (see Article 14a].]*

[…]

1. Budget categories

The EJP Cofund MGA uses the same budget categories as the General MGA.

Budget categories of the EJP Cofund MGA:

- direct personnel costs
  - costs for employees (or equivalent)
  - costs for natural persons working under a direct contract
  - costs of personnel seconded by a third party against payment
  - costs for SME owners without salary
  - costs for beneficiaries that are natural persons without salary
- direct costs of subcontracting
- direct costs of providing financial support to third parties (if option applies)
- other direct costs
  - travel costs and related subsistence allowances
  - equipment costs
  - costs of other goods and services
  - capitalised and operating costs of large research infrastructure
- indirect costs
- specific categories of costs (if option applies).

For the FEJP action, there are moreover 3 additional specific cost categories:

- costs for mobility of personnel
- costs for fellowships for researchers
- access costs for research infrastructure.

Thus, the EJP Cofund MGA does NOT have:

- personnel costs for providing trans-national access to research infrastructure.

⚠ The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

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

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

[…]

5.2 Form of grant, reimbursement rates and forms of costs

The grant reimburses **[…]%**[8] 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**'):

(a) for **direct personnel costs** *[(excluding direct personnel costs covered by the unit cost under Point (f))]*[9]:

- as actually incurred costs ('**actual costs**') or
- on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**').

Personnel **costs for SME owners** or **beneficiaries that are natural persons** not receiving a salary (see Article 6.2, Points A.4 and A.5) must be declared on the basis of the amount per unit set out in Annex 2a (**unit costs**);

(b) for **direct costs of subcontracting** *[(excluding subcontracting costs covered by the unit cost under Point (f))]*[10]: as actually incurred costs (**actual costs**);

(c) for **direct costs of providing financial support to third parties** *[(excluding costs of financial support covered by the unit cost under Point (f))]*[11]: ***[OPTION 1 to be used if Article 15 applies**: as actually incurred costs (**actual costs**);][OPTION 2**: not applicable;**]***

(d) for **other direct costs** *[(excluding other direct costs covered by the unit cost under Point (f))]*[12]:

- for costs of internally invoiced goods and services: on the basis of an amount per unit calculated by the beneficiary in accordance with its usual cost accounting practices ('**unit costs**');
- for all other costs: as actually incurred costs (**actual costs**);

(e) for **indirect costs** *[(excluding indirect costs covered by the unit cost under Point (f))]*[13]: on the basis of a flat-rate applied as set out in Article 6.2, Point E ('**flat-rate costs**');

(f) ***[OPTION** 1 **for specific unit costs (if unit cost foreseen by Commission decision and applicable to the grant):** for [**insert name of specific cost category(ies)**[14]]: on the basis of the amount(s) per unit set out in Annex 2a*[15] ***(unit costs).]***

[OPTION 2: specific cost category(ies)**: not applicable.**]

[…]

8 This must be the percentage (which can reach a maximum of up to 70%) foreseen in the work programme.
9 To be used only if option in Point (f) is used.
10 To be used only if option in Point (f) is used.
11 To be used only if option in Point (f) is used.
12 To be used only if option in Point (f) is used.
13 To be used only if option in Point (f) is used.
14 Insert precise name of the cost category (as in the Commission decision authorising the use of the unit cost/lump-sum). For example: 'access costs for providing transnational access to research infrastructures'; 'costs for clinical studies'; 'costs for energy efficiency measures in buildings', 'costs for mobility of personnel', 'costs for fellowships for researchers', 'access costs for research infrastructure'.
15 Annex 2 must clearly show, for each beneficiary (and linked third party) concerned, all the parameters for the unit cost (i.e. the unit(s), the amount(s) per unit, the research installation/infrastructure for which it is used, the clinical study for which it is used, etc.).

1. Reimbursement rate

How much? For EJP Cofund, the reimbursement rate is fixed in the work programme/call. It cannot exceed 70%[128].

2. Cost forms

For EJP Cofund actions, the **cost forms** are in principle the **same** as in the **General MGA** (i.e. actual costs, unit costs and flat rate costs; *see Article 5 H2020 General MGA*).

For the FEJP action, there are however 3 specific unit costs for category F 'specific cost categories':

- costs for mobility of personnel: daily subsistence allowance, monthly subsistence allowance and monthly family allowance
- costs for fellowships for researchers: monthly living allowance, mobility allowance and family allowance
- access costs for research infrastructure. [129]

[128] *See Article 28(5) of the Rules for Participation Regulation No 1290/2013.*
[129] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_fusion_en.pdf

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

[…]

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. ***[OPTION 1 to be used if Article 15 applies:*** *direct costs of providing financial support to third parties;****] [OPTION 2:*** *not applicable;****]***
D. other direct costs;
E. indirect costs;
F. ***[OPTION 1 for specific unit costs:*** *[insert name(s) of specific cost category(ies)*[16]*]****][OPTION 2: not applicable]****.*

'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 E below).

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

[…]

[16] Insert precise name of the costs (as in the Commission decision authorising the use of the unit cost/ lump-sum). For example: 'access costs for providing trans-national access to research infrastructure'; 'costs for clinical studies'; 'costs for energy efficiency measures in buildings', 'costs for mobility of personnel', 'costs for fellowships for researchers', 'access costs for research infrastructure'.

1. Specific conditions for costs to be eligible

Article 6.2 refers to specific eligibility conditions, applicable per budget category.

The EJP Cofund MGA uses in principle the **same budget categories** (covering the same **types of costs)** as the General MGA and the same **eligibility conditions** and **calculation rules** apply *(see Article 6 H2020 General MGA)*.

However, EJP grants have the **following specificities**:

- for category A 'personnel costs'

  Costs of students, PhDs and other researchers (under scholarship, internship or similar agreement or under employment contract) — Are eligible even if the agreement is training-oriented (or work-oriented but with a non-negligeable training component), the costs fulfil the eligibility conditions set out in Article 6 and Annex 1 explicitly includes the training activities.

- for category D.2 'equipment costs'

  There is a special cost category for the FEJP action: full purchase cost for JET equipment *(see below)*.

- for category F 'specific cost categories'

  There are special cost categories for the FEJP action: specific cost categories *(see below)*.

The annotations below will be limited to these special cost categories for the FEJP action (and summarise — for each of them — the information necessary to establish the eligible costs, i.e.

1. types of costs covered by the budget category
2. cost form under which the costs must be declared (i.e. actual costs, unit costs, flat rate)
3. eligibility conditions
4. how the costs must be calculated).

D. Other direct costs *[(not covered by Point F)]*

[…]

D.2 ***[OPTION 1 by default**: 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 10.1.1 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 the beneficiary) 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 costs of equipment, infrastructure or other assets **contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.*

*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.**]***

***[OPTION 2 (alternative to option above) to be used if foreseen in the work programme**[18]**:** The **costs of purchasing equipment**, **infrastructure** or **other assets** (new or second-hand) (as recorded in the beneficiary's accounts) are eligible if the equipment, infrastructure or other assets was purchased in accordance with Article 10.1.1.*

*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 the beneficiary) 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 costs of equipment, infrastructure or other assets **contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets, do not include any financing fees and if the conditions in Article 11.1 are met.**]***

***[OPTION (in addition to one of the two options above) to be used in accordance with the Euratom work programme 2014-2018**: The **costs of purchasing equipment**, **infrastructure** or **other assets** (new or second-hand) **to be included in the JET facilities** are eligible, if:*

(a) the equipment, infrastructure or other assets to be purchased and the beneficiary purchasing it are identified in Annex 1 and in the annual work plans approved by the Commission (see Article 19.1)

(b) the costs of purchasing the equipment, infrastructure or other assets are capitalised or expensed by the beneficiary in accordance with international accounting standards and the beneficiary's usual accounting practices, and

(c) the equipment, infrastructure or other assets was purchased in accordance with Article 10.1.1.]

[…]

[18] To be used as an exception, only if justified by the nature of the action and the context of the use of the equipment or assets, if provided for in the work programme.

1. Equipment costs (D.): Types of costs — Form — Eligibility conditions — Calculation

This budget category applies to all EJP grants.

An additional option for full purchase costs for equipment for JET facilities will be inserted into the GA for the Fusion programme EJP Cofund action (FEJP).

As in the General MGA, the beneficiaries may normally declare the following **types of** equipment **costs** under category D.2 'equipment costs' *(see Article 6.2.D.2 H2020 General MGA)*:

one of the following:

- either **depreciation costs** of equipment, infrastructure or other assets
- or **purchase costs** of equipment, infrastructure or other assets (if option applies)

AND:

- costs of **renting or leasing** of equipment, infrastructure or other assets
- costs of equipment, infrastructure or other assets **contributed in-kind against payment**.

1.1 Equipment costs: Cost of purchasing equipment, infrastructure or other assets to be included in the JET facilities

1.1.1 What? This budget category **covers** the *full* purchase costs of equipment, infrastructure or other assets to be included in JET facilities (not only the depreciation costs for the relevant periodic report).

1.1.2 Equipment costs must be **declared** as actual costs *(see Article 5.2(d))*.

1.1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, recorded in the beneficiary's accounts, etc.; *see Article 6.1(a)*)
- concern equipment, infrastructure or other assets (new or second-hand) to be included in **JET facilities**

  'JET' means Joint European Torus, i.e. the experimental device for studying fusion relevant plasmas in operation at Culham, UK.

  'JET facilities' include, in particular, the JET device and auxiliary facilities *(such as the neutral beam test bed, the remote handling facility, and the active gas handling system)*.
- be **identified in Annex 1** and in the **annual work plans** approved by the Commission (*see Article 19.1*).
- be **capitalised** or **expensed** by the beneficiary in accordance with international accounting standards and the beneficiary's usual accounting practice
- fulfil the **additional** cost eligibility **conditions** set out in Article 10.1.1.

Costs of equipment, infrastructure or other assets (including depreciation costs) that are declared under this option, may not also be declared by another beneficiary or under another budget category. They may also not be declared under another EU or Euratom grant or contract (*see also Article 6.5(b)*).

1.1.4. There is no specific **calculation** method. The costs must correspond to the eligible costs actually incurred (i.e. the amount paid by the beneficiary for the supply of the equipment).

F. ***[OPTION 1: [Insert name of specific cost category(ies)]][OPTION 2 if no specific cost categories applicable to grant: Specific cost category(ies)]***

[OPTION 1a for specific unit costs (if unit costs foreseen by Commission decision and applicable to the grant): [insert name of specific cost category[22]] *are eligible if they correspond to the amount per unit set out in Annex 2a multiplied by the actual number of actual units,[and if [insert additional eligibility conditions if any]]*.***]***

[same for each specific cost category]

[OPTION 2: *not applicable****]***

[…]

[22] Insert precise name of the costs (as in the Commission decision authorising the use of the unit cost). For example: 'costs for clinical studies'; 'costs for energy efficiency measures in buildings', 'costs for mobility of personnel', 'costs for fellowships for researchers', 'access costs for research infrastructure'.

1. Specific cost categories (F.): Types of costs — Form — Eligibility conditions — Calculation

For this budget category, in principle the same rules apply as in the General MGA *(see Article 6 H2020 General MGA)*.

For the Fusion programme EJP Cofund action (FEJP), there are however 3 additional specific cost categories set out in Decision C(2013) 8201[130] available:

- costs for mobility of personnel
- costs for fellowships for researchers
- access costs for research infrastructure.

⚠ **Double funding risk —** Costs that are declared as a specific unit may NOT be declared (a **second time**) under another budget category *(for the costs that are covered, see below)*.

1.1 Specific cost category – costs for mobility of personnel (F.2)

1.1.1 What? This budget category **covers** direct costs for FEJP secondments of personnel (⚠ irrespective of their duration) to another research institution, in a location other than their normal place of employment, by providing for:

- a daily subsistence allowance
- a monthly subsistence allowance and
- a monthly family allowance.

[130] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_fusion_en.pdf

It may be used for secondments of personnel NOT *employed* by the beneficiary/linked third party, but with a contract with full social security coverage.

It may also be used for secondments of personnel provided in-kind by a third party *free of charge*.

It may NOT be used for mobility costs for personnel contributed in-kind *against payment (see below)*.

What not? This budget category does not cover the salary costs of the seconded personnel, other direct costs for the mobility *(e.g. extra costs incurred for the activities of the seconded persons)* or direct costs for managing the mobility. Such costs can be declared under another budget category (i.e. category A 'personnel costs' or D.3 'other goods and services'; *see Article 6.2.A, 6.2.D.3*).

It also does not cover indirect costs for managing the secondments. Such costs can be declared under another budget category (i.e. category E 'indirect costs'; Article 6.2.E).

1.1.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8201[131] and set out in Annexes 2 and 2a of the GA.

This is currently:

– for the daily subsistence allowance: **EUR 127.65**, per individual per day

This amount is subject to a **country-specific correction coefficient** for the country (and in certain cases, the place) of the secondment (coefficient from 1 October 2013) (Belgium and Luxembourg = 100)[132]:

Country/place	Coefficient (%)	Country/place	Coefficient (%)
Austria	106.4	Italy	104.2
Bulgaria	58.4	*Italy Varese*	93.4
Croatia	80.0	Latvia	77.6
Cyprus	84.1	Lithuania	71.5
Czech Rep.	80.6	Malta	83.3
Denmark	135.3	Netherlands	105.3
Estonia	77.6	Poland	74.2
Finland	122.1	Portugal	83.5
France	117.7	Romania	68.8
Germany	95.8	Slovakia	79.7
Germany Bonn	94.1	Slovenia	85.3
Germany Karlsruhe	93.8	Spain	97.1
Germany Munich	106.4	Sweden	131.9

[131] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_fusion_en.pdf

[132] As set out in Regulation (EU) No 423/2014 of the European Parliament and of the Council of 16 April 2014 adjusting with effect from 1 July 2012 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto (OJ L 129, 30.4.2014, p. 12).

Greece	90.5	*Switzerland Geneva*	124.6
Hungary	78.3	*Switzerland Berne*	123.3
Ireland	110.6	United Kingdom	147.8
		UK Culham	112.5

To ensure purchasing power parity, revised coefficients (based on 1 October 2015 values) are applied as from 1 January 2016:

Country/place	Coefficient (%)	Country/place	Coefficient (%)
Austria	105.9	Italy	99.4
Bulgaria	52.1	*Italy Varese*	92.2
Croatia	74.6	Latvia	74.2
Cyprus	77.3	Lithuania	69.0
Czech Rep.	73.4	Malta	84.5
Denmark	131.8	Netherlands	107.8
Estonia	78.0	Poland	71.8
Finland	119.7	Portugal	79.2
France	114.6	Romania	64.8
Germany	96.6	Slovakia	76.4
Germany Bonn	93.4	Slovenia	81.2
Germany Karlsruhe	93.8	Spain	90.2
Germany Munich	106.0	Sweden	127.9
Greece	79.9	*Switzerland*	142.4
Hungary	69.0		
Ireland	116.6	United Kingdom	166.9
		UK Culham	127.7

– for the monthly subsistence allowance: between **EUR 0 and 720.27**, per individual per month **—** depending on the distance between the place where the individual was working before and the place of secondment

Distance between place of employment and place of secondment (km)	Monthly allowance (EUR)
0 – 150	**0**

> 150	**82.05**
> 300	**145.86**
> 500	**237.05**
> 800	**382.92**
> 1300	**601.73**
> 2000	**720.27**

This amount is subject to the country-specific correction coefficient *(see above)*.

– for the family allowance: **EUR 252.81**, per dependent child per month).

The European Commission may update these unit costs if the joint index based on inflation in Belgium and Luxembourg deviates from the 2014 baseline inflation index by 10 % or more. In this case, the FEJP GA will be **amended** (and the Annotated MGA will be revised accordingly).

As mentioned above, mobility costs for personnel contributed in-kind against payment must be declared as actual costs (of the beneficiary) under another budget category (i.e. category D.1 'travel'; *see Article 6.2.D.1*).

Best practice: Beneficiaries and third parties should use the rates fixed by Decision C(2013) 8201 for the mobility cost to be reimbursed to the third party and to pay this amount to the personnel *(see Article 11.1)*.

1.1.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(b)*)
- be incurred for the secondment of personnel (employed by the beneficiary or made available as an in-kind contribution by a third party) to:
  - a location other than the seconded person's place of employment and
  - one of the following:
    - an organisation where the researcher takes part in experiments using a research infrastructure of that organisation;
    - another beneficiary where the researcher carries out research activities described in Annex 1 or 7 or
    - a joint support unit created by the beneficiaries under the action
- have been **fully incurred for** the benefit of the **seconded personnel** (i.e. fully paid to the individuals, including during annual leave, special leave, sick leave and holidays)
- for the family allowance: be incurred for personnel accompanied during the secondment by dependent children (between 5 and 18 years), enrolled in regular full-time attendance at a primary or secondary school that charges tuition fees (registration and attendance fees).

1.1.4 They must be **calculated** as follows:

– for the daily subsistence allowance:

amount per unit (≈ EUR 127.65 **x** country coeff. corr.) **x** number of actual days of secondment

'**Day of secondment**' means each day of secondment that lasts more than 12 hours and is calculated as follows:

- the *base amount* is the time between the departure time and the return time of the main form of transport used for the secondment
- to this amount, add the following for each leg of the journey (outward and return):
  - for train travel: a maximum of 30 minutes for each leg
  - for air travel: a maximum of 2 hours for each leg.

  NO extra time is added if the journey is by any means of transport other than train or plane.

Example:

The seconded person leaves her/his normal place of employment on a flight departing at 9:35 on Monday 3 April and returns on a flight that arrives at 10:35 on Wednesday 5 April.

*This amounts to **3 days of secondment**: Wednesday 5 April is also counted as exceeding 12 hours (00:00 until the flight arrival time of 10:35, plus 2 hours extra time = 12 hours 35 minutes).*

- for the monthly subsistence allowance:

  amount per unit (*see table above* **x** count. coef. corr.) **x** number of actual months of secondment

- for the family allowance:

  amount per unit (EUR 252.81) **x** number of actual months of secondment **x** number of dependent children

  The family allowance is paid for each full month of secondment in which the dependent child is between 5 and 18 years.

  '**Month of secondment**' means each *full month* of secondment (NO *pro-rata* payments for partial months of secondment).

  A full month can be one of the following two:

  - a **calendar month** *(e.g. 1 to 31 July inclusive)* or
  - a month **from the date the secondment starts** until the same date the following month (excluding the last day, *e.g. 3 July to 2 August)*.

  If a secondment starts on 31 January (or on 30 or 31 January in a leap year), it is considered to have been completed at midnight on 28 February (since there is never a 30 February and a 29 February only in leap years).

Examples for calculating unit costs for mobility of personnel:

1. *An employee with primary employment in Rome is seconded to the joint programme unit in Garching (Munich), Germany, from 1 January 2015 to 31 August 2016 (20 months). He is accompanied by one 6-year-old child, who is enrolled in a fee-paying primary school.*

*Daily subsistence allowance: 609 days * EUR 127.65 = EUR 77 738.85*

*Monthly subsistence allowance: 20 months * EUR 382.92 (800< distance >1 300) = EUR 7 658.40*

Subtotal = EUR 85 697.25

** correction coefficient (2016) of 106.0 % (Germany Munich) = EUR 90 839.09*

*Family allowance: 20 months * EUR 252.81 = EUR 5 056.20*

Total declared unit costs: EUR 95 895.29

2. *An employee with primary employment in Madrid is sent to a scientific project meeting at Culham, UK, for three days.*

*Daily subsistence allowance: 3 days * EUR 127.65 = EUR 382.95*

** correction coefficient (2016) of 127.7 % (Culham, UK) = EUR 489.03*

Total declared unit costs: EUR 489.03

1.2 Specific cost category – costs for fellowships for researchers (F.2)

1.2.1 What? This budget category **covers** direct costs for FEJP researcher fellowships, by providing for

- a monthly living allowance, with full social security coverage and unit costs (including all compulsory deductions) in accordance with applicable national legislation (gross amount)
- a monthly mobility allowance to cover additional costs, *e.g. relating to travel and accommodation* and
- a monthly family allowance to reduce family-related obstacles to researcher mobility.

What not? This budget category does not cover direct costs for managing the fellowships. Such costs can be declared under another budget category (i.e. category D.3 'other goods and services'; *see Article 6.2.D.3*).

It also does not cover indirect costs for managing the fellowships. Such costs can be declared under another budget category (i.e. category E 'indirect costs'; *see Article 6.2.E*).

1.2.2 The costs must be **declared as** the unit costs fixed by Decision C(2013) 8201[133] and set out in Annexes 2 and 2a of the GA.

This is currently:

- for the living allowance: **EUR 3 110** for early-stage researchers and **EUR 4 650** for experienced researchers, per fellow per month

  This amount is subject to a 'country-specific correction coefficient' (based on the seven-year average of the relevant coefficient used between 2007 and 2013 for the FP7 Marie Skłodowska-Curie actions) [134]:

Country	Coefficient	Country	Coefficient
Austria	104.8%	Italy	106.7%
Belgium	100.0%	Lithuania	73.1%
Bulgaria	71.5%	Luxembourg	100.0%
Cyprus	91.8%	Latvia	75.9%
Czech Republic	83.8%	Malta	89.6%
Germany	98.8%	Netherlands	104.3%
Denmark	135.3%	Poland	76.4%
Estonia	78.3%	Portugal	89.1%
Greece	92.7%	Romania	68.3%
Spain	97.6%	Sweden	111.7%

[133] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_fusion_en.pdf

[134] As set out in H2020 Work Programme 2014-2015- 3. Marie Skłodowska-Curie Actions (MSCA) (p.53-54)

Finland	116.6%	Slovenia	86.1%
France	111.0%	Slovakia	82.6%
Croatia	97.5%	United Kingdom	120.3%
Hungary	76.2%		
Ireland	113.5%	Switzerland	113.1%

– for the mobility allowance: **EUR 600**, per fellow per month

– for the family allowance: **EUR 500**, per fellow per month).

1.2.3 The costs must comply with the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, etc.; *see Article 6.1(b)*)

- be incurred for fellowships for (early-stage or experienced) researchers that are recruited under an employment contract or equivalent contract with full social security coverage that complies with the applicable social security legislation[135]

  'Early-stage researchers' means researchers that are — at the time of recruitment by the host organisation — in the first four years (full-time-equivalent research experience) of their research careers and have not been awarded a doctoral degree.

  'Experienced researchers' means researchers that have a doctoral degree or at least four years of full-time-equivalent research experience.

- have been **fully incurred for** the benefit of the **fellows** (i.e. fully paid to the individuals)

- for the family allowance: be incurred for fellows that have a family at the time of the recruitment

  'Family' means persons linked to the researcher by marriage (or a relationship with equivalent status to a marriage recognised by the legislation of the country where the relationship was formalised) or dependent children who are being actually maintained by the researcher.

1.2.4 They must be **calculated** as follows:

– for the living allowance:

amount per unit (≈ EUR 3 110/4 650 (**x** count. coef. corr.) **x** number of months actually spent by the fellows on the research training activities

– for the mobility allowance:

amount per unit (EUR 600) **x** number of months actually spent by the fellows on the research training activities

– for the family allowance:

amount per unit (EUR 500) **x** number of months actually spent by the fellows on the research training activities

[135] Council Regulation (EC) No 883/2004 of 29 April 2004, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, Commission Regulation (EU) No 1244/2010 of 9 December 2010 (OJ L 200, 7.6.2004, p. 1).

These are calculated per individual per complete month (NO *pro-rata* payments).

Example for calculating unit costs for researchers fellowships:

A Belgian early-stage researcher with no family is starting a fellowship in Finland for 18 months as part of a PhD programme.

*Living allowance: 18 months * EUR 3 110 = EUR 55 980*

** correction coefficient of 116.6 % (Finland) = EUR 65 272.68*

*Mobility allowance: 18 months * EUR 600 = EUR 10 800*

No family allowance

Total declared unit costs: EUR 76 072.68

1.3 Specific cost category – access costs for research infrastructure (F.2)

1.3.1 What? This budget category **covers** direct and indirect access costs for providing FEJP access to research infrastructure (i.e. equipment and running costs of the installation and the costs for logistical, technological and scientific support to users' access, including costs for ad-hoc training needed by users to use the installation and for preparatory and closing activities needed to work on the installation).

⚠ This specific budget category must be distinguished from the general budget category D.4 **'capitalised and operating costs of large research infrastructure'** *(see Article 6.2.D.4 H2020 General MGA)*. FEJP beneficiaries that that have obtained a positive ex-ante assessment may opt between declaring costs under:

- category D.4 'capitalised and operating costs of large research infrastructure'

or

- category F.2 'access cost for research infrastructure'.

It may also be used for access to infrastructure provided by a third party *free of charge*.

It may NOT be used for infrastructure contributed in-kind *against payment (see below)*.

What not? Travel and subsistence costs for users to get access are not included in the access costs. (These costs can be reimbursed separately, under category D.1 'travel'; *see Article 6.2.D.1*).

1.3.2 If they are declared under this budget category, these costs must be **declared as** the unit cost calculated in accordance with Decision C(2013) 8201[136] and set out in Annexes 2 and 2a of the GA.

The precise unit cost is not pre-fixed by the Decision; it must be established for each access provider and installation — before signature of the FEJP GA.

The 'unit of access' to the installation must be identified (i.e. the unit used to measure the total quantity of access that the installation provides to its users)

The 'amount per unit of access' (EUR/unit of access) must be calculated according to the following formula:

$$\text{Amount per unit} = \frac{\text{average annual total access cost (over past two years}^{137}\text{)}}{\text{average annual total quantity of access (over past two years}^{138}\text{)}}$$

The averages must be based on:

[136] Available at http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_fusion_en.pdf

[137] In exceptional and duly justified cases, the Commission may agree to a different reference period.

[138] In exceptional and duly justified cases, the Commission may agree to a different reference period.

- the beneficiary's certified or auditable historical data
- costs allocated to the installation according to the beneficiary's usual cost accounting practices and
- a period excluding times when the installation was not usable (out of order, under repair or undergoing long-term maintenance).

'Total quantity of access' means the units of access annually provided by the installation for the purposes of the activities referred to in Annex 1 of the GA (for the reference period years N-1 and N-2).

'Total access costs' is calculated on the basis of the following categories of eligible costs:

- direct costs incurred by the access provider for the 'annual total quantity of access to the installation', as recorded in the certified or auditable profit-and-loss accounts of the reference period (years N-1 and N-2) for:
  - personnel costs of administrative, technical and scientific staff directly assigned to keep the installation functioning normally and to support the users
  - costs of contracts for maintenance and repair (including specific cleaning, calibrating and testing*)* specifically awarded to keep the installation functioning normally
  - costs of consumables specifically used for the installation and the users' research work
  - costs of contracts for installation management, including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety or security standards specifically incurred for the functioning of the installation
  - costs of energy power and water supplied for the installation
  - costs of general services specifically included in the access services provided *(e.g. library costs, shipping costs)*
  - costs of software licences, internet connections or other electronic services for data management and computing where needed to provide access services
  - costs of specific scientific services included in the access provided or needed for the provision of access
  - depreciation costs of equipment, buildings and other assets (new or second-hand) that are part of the installation and were not purchased or built using EU/Euratom funds
  - renting or leasing the equipment, buildings and other assets that are part of the installation

  Costs calculated in accordance with the beneficiary's usual cost accounting practices are acceptable for personnel (average personnel costs) and internally invoiced goods and services — if this is the normal practice of the beneficiary.
- indirect costs for providing access to the installation equal to 25 % of the eligible direct costs, minus any costs of subcontracting (i.e. costs of contracts for maintenance and repair, installation management, scientific services and other electronic services)

and excluding:

- depreciation costs of infrastructure purchased or built using EU funds (Those costs are not eligible; *see also Article 6.5(b)*)
- travel and subsistence costs for users.

The unit cost can be changed only via an amendment to the agreement *(see Article 55)*.

As already mentioned above, access costs for installations contributed in-kind must be declared as actual costs under another budget category (i.e. category D.3 'other goods and services'; *see Article 6.2.D.3*).

Before signature of the FEJP GA, the beneficiaries can still opt for declaring the costs not as unit cost, but as actual costs *(see Article 6.2.A-E)*. (One cost form per installation and access provider.)

The use of unit costs for access activities is optional, i.e. each beneficiary/linked third party can decide independently whether to be reimbursed on the basis of unit costs or actual costs.

If a beneficiary has initially opted for actual costs, it may only change its choice to unit costs through an amendment to the agreement *(see Article 55)*.

1.3.3 The costs must fulfil the following **eligibility conditions**:

- fulfil the **general conditions** for unit costs to be eligible (i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc.; *see Article 6.1(b)*)
- be incurred for providing access to research infrastructure to other beneficiaries

1.3.4 They must be **calculated** as follows:

amount per unit *(see Annex 2a GA)* **x** number of units of access actually provided to other beneficiaries

Example for calculating unit costs of access to research infrastructure:

An access provider considers that the unit of access to the installation is calendar days. It provided 200 days of access in year N-1 and 150 days in year N-2. The total cost of providing this access, calculated on the basis of the categories of costs indicated above and the beneficiary's usual cost-accounting practices, is EUR 50 000 000 for year N-1 and EUR 20 000 000 for year N-2.

Unit cost = EUR 35 000 000 (average annual total cost) / 175 days (average annual total access) = EUR 200 000 per day

If the access provider makes the installation available for the Fusion programme EJP Cofund action for 50 days in year N, the total to be declared under unit costs for research infrastructure for year N will be EUR 10 000 000.

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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 10);
- use in-kind contributions provided by third parties against payment (see Article 11);
- use in-kind contributions provided by third parties free of charge (see Article 12);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

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

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

For EJP Cofund actions, the same rules on third party involvement apply as in the General MGA *(see Article 8 H2020 General MGA)*.

ARTICLE 19 — SUBMISSION OF DELIVERABLES

ARTICLE 19 — SUBMISSION OF DELIVERABLES

19.1 Obligation to submit deliverables

The coordinator must submit:

- 90 days before the end of each reporting period:

  (a) the '**annual work plan for the next year**' (see Annex 7), for approval by the *[Commission][Agency]* and

  (b) a **summary progress report** *on* the activities carried out during the on-going reporting period

  This report must show how the activities proposed in the annual work plan for the next year ensure continuity with the work already carried out.

  If the *[Commission][Agency]* considers that the annual work plan for the next year does not comply with Annex 1, the coordinator must submit a revised version within 30 days from receiving formal notification.

  If the *[Commission][Agency]* considers that the revised annual work plan for the next year still does not comply with Annex 1, it may terminate the Agreement (see Article 50.3).

- the other '**deliverables**' identified in Annex 1, in accordance with the timing and conditions set out in it.

19.2 Consequences of non-compliance

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

1. Deliverable: Annual work plan

When & What?

For EJP Cofund actions, the coordinator must submit to the Commission/Agency — for each twelve-month period of the EJP — an annual work plan.

This plan contains a detailed description of the activities for that period, in line with the objectives and description of work set out in Annex 1. Thus, while Annex 1 may include the targeted areas for research or other activities, it is the annual work plan that will define and specify the activities and the deliverables.

Example:

Annex 1 of a EJP contains a work package dedicated to a series of irradiation experiments in a large research facility. The annual work plan for the first reporting period provides a detailed description of the planned experiments on the related materials and the expected milestones.

As the programme develops, additional irradiation capacity becomes available in year 3. Alternatively, the validation of previous results requires further work or other materials become interesting. The consortium proposes an annual work plan with additional experiments commencing in that reporting period.

An EJP consortium therefore has a certain flexibility to develop activities and use the allocated budget (as long as the proposed activities remain in line with the EJP objectives and description of work (Annex 1) as initially evaluated)

The annual work plan must be drawn up using the template in Annex 7.

The periods of the annual work plans coincide with the reporting periods *(see Article 20)*, but the work plans must be **submitted** 3 months (i.e. 90 days) in advance to allow for review by the Commission/Agency (— except for the annual work plan for the first reporting period, which must already be part of the proposal; *see the proposal templates*).

If the Commission/Agency considers that the proposed annual work plan does not comply with Annex 1, it will ask the coordinator to submit a **revised annual work plan** (— within 30 days from receiving the request).

How?

The annual work plan must be uploaded directly in the Participant Portal.

2. Deliverable: Summary progress report

When & What? The annual work plan must be accompanied by a summary progress report.

The summary progress report should focus on how the activities proposed in the annual work plan ensure continuity with the work already carried out.

It should NOT contain an analysis of *all* activities carried out during the reporting period (since that is the purpose of two other documents that must be submitted as part of the periodic reports, i.e. the explanation of the work carried out and the overview of the progress; *see Article 20.3*).

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The coordinator must submit to the *[Commission][Agency]* (see Article 52) 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 52).

20.2 Reporting periods

The action is divided into the following '**reporting periods**':

- RP1: from month 1 to month 12
- RP2: from month 13 to month 24
- RP3: from month 25 to month 36
- RP4: from month 37 to month 48
- RP5: from month 49 to month 60

20.2a Request for a second pre-financing payment

[OPTION 1 in case of two pre-financing payments: *The coordinator must submit — within 30 days following the end of the first reporting period — a* ***request for a second pre-financing payment****.*

*The request must be included in a '****statement on the use of the previous pre-financing payment****' (see Annex 8).****]***

[OPTION 2: *not applicable****]***

[…]

1. Reports

Like the General MGA, the EJP Cofund MGA foresees periodic reports and a final report, with both a technical and a financial part *(see Article 20 H2020 General MGA)*.

2. Reporting periods

EJP Cofund actions are divided in **5** reporting periods of **12 months** each.

Each reporting period triggers a periodic report.

3. Request for a second pre-financing payment — Statement on the use of the previous pre-financing payment

The GA may provide for this option for large EJPs that need a second pre-financing payment (at the beginning of the second reporting period; *see Article 21)*.

Payment of further pre-financing payments is not automatic. It must be requested via a statement on the use of the first pre-financing payment *(see Annex 8)*.

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

The following payments will be made to the coordinator:

- a *[first]* **pre-financing payment**;
- *[a* **second pre-financing payment**, *on the basis of the request for a second pre-financing payment (see Article 20);]*
- one or more **interim payments**, on the basis of the request(s) for interim payment (see Article 20), and
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20).

21.2 Pre-financing payment — Amount — Amount retained for the Guarantee Fund

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 *[Commission][Agency]* will — within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest — make a *[first]* pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Article 48 applies.

From this amount, an amount of EUR [**insert amount** (insert amount in words)], corresponding to ***[OPTION 1 in case of a single pre-financing payment:*** *5%]****[OPTION 2 in case of two pre-financing payments:*** 2,5%*]* of the maximum grant amount (see Article 5.1), is retained by the Commission and transferred into the '**Guarantee Fund**'.

[OPTION in case of a second pre-financing payment: *The [Commission][Agency] will — within 30 days from the request for a second pre-financing payment (see Article 20.2a) — make a second pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Article 48 applies.*

*From this amount, an amount of EUR [**insert amount** (insert amount in words)], corresponding to 2.5% of the maximum grant amount (see Article 5.1), will be retained by the [Commission][Agency] and transferred into the Guarantee Fund.*

If the statement on the use of the previous pre-financing payment shows that less than 70% of the previous payment has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70 % threshold and the amount used. ***]***

[OPTION if the JRC is a beneficiary: *The parts of the pre-financing payments related to the Joint Research Centre (JRC) ([**insert amounts** (insert amounts in words)] are not paid to the coordinator, but kept by the [Commission][Agency] for the JRC.****]***

[…]

21.5 Notification of amounts due

When making payments, the *[Commission][Agency]* will formally notify to the coordinator the amount due, specifying whether it concerns a *[second pre-financing payment,]* 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 43 and 44.

[…]

1. Payments

Normally, EJP Cofund actions are divided in 5 reporting periods *(see Article 20.2)*, with one pre-financing payment and interim payments for each reporting period.

Large EJPs may exceptionally benefit from a second pre-financing payment (at the beginning of the second reporting period).

Example (two pre-financing payments):

An EJP receives a grant with a maximum grant amount of EUR 30 million. A total pre-financing of EUR 8 million is agreed but is split into two pre-financings of EUR 4 million each.

First pre-financing = EUR 4 000 000 with a Guarantee Fund retention of EUR 30 million x 2.5% = EUR 750 000 ➔ net payment of EUR 3 250 000

Second pre-financing:

1a: *The coordinator submits a statement showing that at least EUR 2 275 000 (70% of the EUR 3 250 000) has been used to cover the costs of the action ➔ the second pre-financing will be EUR 4 000 000 with a Guarantee Fund retention of EUR 30 million x 2.5% = EUR 750 000 = net payment of EUR 3 250 000*

1b: *The coordinator submits a statement showing that EUR 1 950 000 (60% of the initial pre-financing) has been used to cover the costs of the action ➔ the second pre-financing will be EUR 4 000 000 – (EUR 2 275 000 – EUR 1 950 000) = EUR 3 675 000 with a Guarantee Fund retention of EUR 30 million x 2.5% = EUR 750 000 ➔ net payment of EUR 2 925 000*

The second pre-financing payment is NOT automatic but must be requested by the coordinator via a 'statement on the use of the first pre-financing payment' *(see Article 20)*.

The balance is paid when the action ends.

2. Amount of pre-financing payments

How much? The pre-financing for EJP Cofund actions is normally 20% of the maximum grant amount set out in Article 5.1 (— unless it is exceptionally fixed higher or lower, to reflect the size and the needs of the EJP, the reimbursement rate in the work programme/call and/or the availability of EU budget credits)

If the GA foresees a second pre-financing payment, the Guarantee Fund retention (of 5% of the maximum grant amount) will be split between the two pre-financing payments.

⚠ The second/third pre-financing payment will be **reduced**, if — according to the statement on use of the previous pre-financing instalment — the previous pre-financing was **not fully used**:

- if 70% or more of the first/second pre-financing has been used: the second/third pre-financing is paid in full
- if less than 70% of the first/second pre-financing has been used: the second/third pre-financing will be reduced by an amount equal to the difference between the percentage actually used and 70%.

VIII. Framework Partnerships and Specific Agreements

VIII.1 Background information and approach

The H2020 FPA and H2020 SGA are used for framework partnerships and specific grants (under such framework partnerships) ONLY.

Framework partnerships are **long-term co-operations** that:

- pursue a mutual interest and common general objectives (that coincide with EU policy)
- have an action plan with actions that were defined and agreed jointly on the basis of the common general objectives and
- have an ongoing formal arrangement to implement (potential) actions (i.e. the FPA and SGAs).

Currently, framework partnerships are only open to actions under the General MGA (i.e. all kinds of research and innovation actions (RIA), innovation actions (IA) and coordination and support actions (CSA)) and for PCP/PPI actions. Framework partnerships are currently not (yet) open to ERANET, EJP, ERC, MSCA or SME Instrument specific actions.

4.0 As from GA 4.0 FPA/SGAs are also possible for PCP/PPI actions. This does NOT apply to older grant agreements.

> ⚠ The FPA/SGA therefore now covers both research and innovation actions or innovation actions *with* a PCP or PPI and PCP/PPI actions (separate type of action with PCP/PPI as *main* action task).

The FPA and SGA generally follow the General MGA for content, but with a different numbering:

Table of correspondence

Title of Article	FPA Article	SGA Article	MGA Article
CHAPTER 1 GENERAL			
SUBJECT OF THE AGREEMENT	1	1	1
CHAPTER 2 FRAMEWORK PARTNERSHIP			
ACTION PLAN — AWARD OF SPECIFIC GRANTS — SPECIFIC AGREEMENTS	2		
DURATION AND STARTING DATE OF THE FRAMEWORK PARTERNSHIP	3		
RIGHTS AND OBLIGATIONS UNDER THE FRAMEWORK PARTNERSHIP	4		
SUSPENSION OF FRAMEWORK PARTNERSHIP IMPLEMENTATION	5		
TERMINATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT OR OF PARTICIPATION OF ONE OR MORE PARTNERS	6		
CHAPTER 3 SPECIFIC GRANTS			
SECTION 1 SPECIFIC ACTIONS			

Table of correspondence

Title of Article	FPA Article	SGA Article	MGA Article
SPECIFIC ACTIONS TO BE IMPLEMENTED — COMPLEMENTARY GRANTS — JOINTLY FUNDED ACTIONS	7	2	2
DURATION OF THE SPECIFIC ACTIONS	8	3	3
ESTIMATED BUDGET AND BUDGET TRANSFERS	9		4
SECTION 2 SPECIFIC GRANTS			
GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS	10	4	5
ELIGIBLE AND INELIGIBLE COSTS	11	5	6
SECTION 3 RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE SPECIFIC GRANTS			
SUBSECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE SPECIFIC ACTIONS			
GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE SPECIFIC ACTIONS	12		7
RESOURCES TO IMPLEMENT THE SPECIFIC ACTIONS	13	6	8
IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING	14	7	9
PURCHASE OF GOODS, WORKS OR SERVICES	15	8	10
USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT	16	9	11
USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE	17	10	12
IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS	18	11	13
IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES	19	12	14
IMPLEMENTATION OF ACTION TASKS BY INTERNATIONAL PARTNERS	19a	12a	14a
FINANCIAL SUPPORT TO THIRD PARTIES	20	13	15
PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURES	22	14	16
SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION			
GENERAL OBLIGATION TO INFORM	23		17
KEEPING RECORDS — SUPPORTING DOCUMENTATION	24		18

Table of correspondence

Title of Article	FPA Article	SGA Article	MGA Article
SUBMISSION OF DELIVERABLES	25	15	19
REPORTING — PAYMENT REQUESTS	26	16	20
PAYMENTS AND PAYMENT ARRANGEMENTS	27	17	21
CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS	28		22
EVALUATION OF THE IMPACT OF THE SPECIFIC ACTIONS	29		23
SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS OF THE SPECIFIC ACTIONS			
MANAGEMENT OF INTELLECTUAL PROPERTY	29a		23a
AGREEMENT ON BACKGROUND	30		24
ACCESS RIGHTS TO BACKGROUND	31	18	25
OWNERSHIP OF RESULTS	32	18	26
PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING	33		27
EXPLOITATION OF RESULTS	34	18	28
DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING	35	18	29
TRANSFER AND LICENSING OF RESULTS	36	18	30
ACCESS RIGHTS TO RESULTS	37	18	31
SUBSECTION 4 OTHER RIGHTS AND OBLIGATIONS			
RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS	38		32
GENDER EQUALITY	39		33
ETHICS	40		34
CONFLICT OF INTERESTS	41		35
CONFIDENTIALITY	42		36
SECURITY-RELATED OBLIGATIONS	43		37
PROMOTING THE ACTION — VISIBILITY OF EU FUNDING	44		38
PROCESSING OF PERSONAL DATA	45		39
ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE *[COMMISSION][AGENCY]*	46		40
SECTION 4 DIVISION OF PARTNERS' ROLES AND RESPONSIBILITIES *[— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP*			

Table of correspondence

Title of Article	FPA Article	SGA Article	MGA Article
WITH PARTICIPANTS OF A JOINT ACTION]			
DIVISION OF PARTNERS' ROLES AND RESPONSIBILITIES	47	19	41
SECTION 5 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES — DAMAGES — SUSPENSION — TERMINATION — FORCE MAJEURE			
REJECTION OF INELIGIBLE COSTS	48		42
REDUCTION OF THE GRANT	49		43
RECOVERY OF UNDUE AMOUNTS	50		44
ADMINISTRATIVE SANCTIONS	51		45
LIABILITY FOR DAMAGES	52		46
SUSPENSION OF PAYMENT DEADLINE	53		47
SUSPENSION OF PAYMENTS	54		48
SUSPENSION OF THE ACTION IMPLEMENTATION	55		49
TERMINATION OF THE SPECIFIC AGREEMENT OR OF PARTICIPATION FOR ONE OR MORE PARTNERS	56	20	50
FORCE MAJEURE	57		51
CHAPTER 4 FINAL PROVISIONS			
COMMUNICATIONS BETWEEN THE PARTIES	58		52
INTERPRETATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS	59		53
CALCULATION OF PERIODS, DATES AND DEADLINES	60		54
AMENDMENTS TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS	61		55
ACCESSION TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS	62		56
APPLICABLE LAW AND SETTLEMENT OF DISPUTES	63		57
ENTRY INTO FORCE OF THE FRAMEWORK PARTNERSHIP AGREEMENT	64	21	58

In addition, all references in the General MGA to 'beneficiary(ies)' must be read as referring to the 'partner(s)'.

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that differ only in numbering or presentation *(e.g. Chapters 3 and 4; Annexes)* will not be shown.

By contrast, provisions that do not deviate from the General MGA, but that require clarification or a specific interpretation for the FPA or SGA are added:

- Article 9.1 (FPA-SGA budget categories)
- Article 10 (FPA-SGA maximum grant amount, form of grant, reimbursement rate, forms of costs, final grant amount, revised final grant amount)
- Article 11 (FPA-SGA eligible and ineligible costs)
- Article 13 (FPA-SGA rules on third party involvement)
- Article 63.2 (FPA/SGA rules on dispute settlement).

For more information on framework partnerships*, see the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

VIII.2 H2020 FPA: Annotations

FRAMEWORK PARTNERSHIP AGREEMENT

NUMBER [insert number] — [insert acronym]

This '**Framework Partnership Agreement**' is between the following parties:

on the one part,

***[OPTION 1**: the **European Union** ('the EU', represented by the European Commission ('the Commission')[2]) ,]*

***[OPTION 2:** the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('the Commission')[3],]*

***[OPTION 3:** the [**Research Executive Agency (REA)**] [**European Research Council Executive Agency (ERCEA)**] [**Innovation and Networks Executive Agency (INEA)**] [**Executive Agency for Small and Medium-sized Enterprises (EASME)**] ('the Agency'), under the powers delegated by the European Commission ('the Commission')[4],]*

represented for the purposes of signature of this Framework Partnership Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname][5],

and

on the other part,

1. 'the **coordinator**':

[**full official name** (**short name**)**]**, established in [official address in full] ***[OPTION for partners with VAT**: VAT number [insert number],] [**OPTION for coordinators not receiving EU funding:** as 'beneficiary not receiving EU funding (see Article 14),]* represented for the purposes of signing the Framework Partnership Agreement by [function, forename and surname]

and the following other **partners** if they have signed their 'Accession Form' (see Annex 3 and Article 62):

2. [**full official name**] (**short name)**], established in [official address in full], ***[OPTION for partners with VAT:** VAT number [insert number],]*

***[OPTION for partners not receiving EU funding:** X. [**full official name (short name)**], established in [official address in full], [**OPTION for partners with VAT:** VAT number [insert number]], as 'partner not receiving EU funding (see Article 14),]*

[same for each partner]

***[OPTION if the JRC is a partner:** and X. the **Joint Research Centre (JRC)** established in [official address in full], if it signs the Administrative Arrangement (see Annex 3b)**]**.*

Unless otherwise specified, references to 'partner' or 'partners' include the coordinator ***[OPTION if the JRC participates:** and the Joint Research Centre (JRC)**]**.*

The parties have agreed to enter into the framework partnership under the terms and conditions set out below.

The Framework Partnership Agreement is composed of:

Terms and Conditions

Annex 1 Action plan[6]

Annex 2 Model Specific Agreement

Annex 1 Description of the specific action

Annex 2 Estimated budget for the specific action

Annex 3 Model for the financial statements

Annex 4 Model for the certificate on the financial statements

Annex 3 Accession Forms

[OPTION to be used if Article 19 applies and if joint and several liability has been requested by the [Commission][Agency]: *3a Declaration on joint and several liability of linked third parties****]***

[OPTION if the JRC participates: *3b Administrative Arrangement****]***

Annex 4 Model for the certificate on the methodology

[2] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[3] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[5] The person representing the *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'*.
[6] The action plan should include the common objectives of the parties and the types of activities covered under this framework partnership, that contribute to the achievement of those objectives.

1. Participants: Coordinator — Partners — Linked third parties — Third parties involved in the action

In FPAs and SGAs the beneficiaries are called '**partners**' (because technically speaking they become beneficiaries only once an SGA is signed).

Same partners at FPA and SGA level — Partners must generally be the same at FPA and SGA level. However, partners/linked third parties that do not want to actively participate in a specific action, may participate as **partners not carrying out action tasks** and will not have to comply with most of the obligations under that SGA *(see Preamble SGA).*

Arrangements for signing the FPA are as follows:

- the coordinator signs the FPA directly
- the other partners sign the Accession Form *(see Article 62 FPA and Annex 3)*.

The documents must be signed directly in Participant Portal.

Amendments to the FPA (and the SGAs) will be signed by the coordinator on behalf of the other partners.

Applicants who accept the partnership by signing the FPA become partners to the Agreement and are **bound by** its **terms and conditions**.

Other entities involved in the partnership which do not sign the FPA (including entities linked to the partners) are considered as '**third parties involved in the partnership**'.

They are not bound by the terms and conditions of the FPA and SGA; conversely, the Commission/Agency has no obligation towards third parties.

Only linked third parties are normally involved in the framework partnership itself. Other third parties are normally only involved in the specific actions ('**third parties involved in the specific actions**').

CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT MATTER OF THE AGREEMENT

CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT MATTER OF THE AGREEMENT

This Agreement establishes a long term cooperation ('**framework partnership**') and sets out its terms and conditions and the general terms and conditions and rights and obligations applicable to the specific grants that may be awarded by the *[Commission][Agency]* for the specific actions under the framework partnership.

CHAPTER 2 FRAMEWORK PARTNERSHIP

ARTICLE 2 — ACTION PLAN — AWARD OF SPECIFIC GRANTS — SPECIFIC AGREEMENTS

CHAPTER 2 FRAMEWORK PARTNERSHIP

ARTICLE 2 — ACTION PLAN — AWARD OF SPECIFIC GRANTS — SPECIFIC AGREEMENTS

2.1 Action plan

The objectives and activities under the **framework partnership** are set out in the '**action plan**' in Annex 1.

2.2 Award of specific grants for specific actions — Specific Agreements

The *[Commission][Agency]* may award '**specific grants**' for actions to be implemented under the framework partnership ('**specific actions**').

[OPTION 1 by default: *In order to obtain proposals for specific grants, the [Commission][Agency] will consult the partners on the basis of [a **call for proposals**][an **invitation to submit a proposal**]*[7] *[a call for proposals or an invitation to submit a proposal] that sets out the [selection and]*[8] *award criteria it will apply. [This call will be [open to all the partners for which this type of activity is included in an FPA action plan] [open to all applicants meeting the announced criteria].] The partners are not obliged to respond to such consultations and may choose not to submit any proposal.****]***

[OPTION 2 if foreseen in the work programme: *The partners must **submit the proposals for specific grants** (consisting of [insert documents to be submitted with proposal]) [for [insert the name(s) of the activity]] by [the date(s) specified in the action plan][insert date].****]***

The *[Commission][Agency]* will decide on the award of the specific grants following an evaluation of the proposal *[and a competitive review across partners of different framework partnerships]*.

If the *[Commission][Agency]* decides to award a specific grant, it will propose the partners to conclude a '**Specific Agreement (SGA)**' (see Annex 2).

By entering into the Specific Agreement ***[OPTION if the JRC is a partner:*** *or the Administrative Arrangement]*, the partners accept the specific grant and agree to implement the specific action under their own responsibility and in accordance with the Framework Partnership Agreement and the Specific Agreement, with all the obligations and conditions they set out

Specific Agreements must be concluded before the end of the framework partnership (see Article 3).

After the end of the framework partnership or its termination, the Framework Partnership Agreement continues to apply to specific actions that are implemented under Specific Agreements which have entered into force before end of the duration.

[7] The invitation to submit a proposal is an option reserved:
- for monopoly situations or partners designated in the basic act;,
- for cases where work is carried out in a network with pre-determined partners under the conditions laid down in the basic acts or
- for actions with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power, on condition that the actions concerned do not fall within the scope of a call for proposals.

[8] Use this option if you opt for an open call for proposals ('a call for proposals open to all applicants meeting the announced criteria').

1. Framework partnership — Action plan

What? Framework partnerships are long-term partnerships based on jointly agreed general objectives and a roadmap of actions ('**action plan**').

The action plan should normally include at least the following:

- the objectives of the partnership (as set out in the work programme/call)
- the list of actions covered (including an indicative work plan)
- an explanation of how the actions will contribute to the achievement of the objectives
- the description of the partners
- key performance indicators
- information on the arrangements for intellectual property rights and open access (if relevant at FPA level)
- information on ethics and gender issues (if relevant).

The partnership is established in a FPA and implemented by SGAs for specific actions.

For this purpose, specific grants will be announced in work programmes/calls.

The FPA does NOT oblige the Commission/Agency to award specific grants.

Specific grants can be awarded only in line with the action plan.

The partners remain free to participate also in other calls for proposals organised by the Commission/Agency, in order to receive grants outside the action plan.

Framework partnerships can in principle be funded in all Parts of Horizon 2020.

4.0 Currently, they are however only open to actions under the General MGA (i.e. all kinds of research and innovation actions (RIA), innovation actions (IA) and coordination and support actions (CSA) *(e.g. H2020-FETFLAG-2014; H2020-EINFRA-2014-2)* and PCP- PPI actions; Framework partnerships are currently NOT (yet) open to ERANET, EJP, ERC, MSCA or SME Instrument specific actions.

2. Award of specific grants

The specific grants are awarded to partners through one or more of the following procedures (depending on which options are inserted in the FPA):

- **calls for proposals open to all partners** for which this type of activity is included in the action plan

  Such calls are restricted to the consortia that have signed a FPA and compete for the specific grant.

  Example: *The Commission signs different FPAs. In the call for proposals for specific grants, it establishes that participation is restricted to applicants who have already signed an FPA. Consortia A and B have signed FPAs with the Commission – FPA-1 in the case of Consortium A and FPA-2 in the case of Consortium B. Following submission of the proposal and a positive evaluation, Consortium B is awarded the grant and signs an SGA with the Commission in the framework of FPA-2.*

- **calls for proposals open to all applicants** meeting the criteria

Such calls are open to any legal entity that satisfies the criteria set out in the call for proposals.

- **invitations to submit a proposal**

  Such invitations can only be issued in one of the following cases:

  - in monopoly situations or where partners are designated in the basic act
  - in if work is carried out in a network with pre-determined partners under conditions laid down in the basic acts
  - for actions with specific characteristics that require a particular type of body on account of its technical competence, high degree of specialisation or administrative capacity, and do not fall within the scope of a call for proposals

- **submission** of a proposal **by a certain date**

  This option can be included in the FPA only if it is provided for in the work programme/call.

  The date must be set out in the action plan or in Article 2 FPA.

ARTICLE 3 — DURATION AND STARTING DATE OF THE FRAMEWORK PARTERNSHIP

ARTICLE 3 — DURATION AND STARTING DATE OF THE FRAMEWORK PARTNERSHIP

The Framework Partnership Agreement is concluded for a period of [insert number] of months ([…]years)[9] as of its entry into force (see Article 64). This period cannot be extended.

[9] Not more than four years, except in duly justified exceptional cases (for instance, to align it with the duration of the framework programme) (Article 178 Rules of Application Regulation No 1268/2012).

1. Starting date of the framework partnership

The starting date of the framework partnership is fixed by the Commission/Agency in the FPA.

It is usually the first day of the month following the date on which the FPA enters into force. The FPA enters into force when the last party signs it *(see Article 64 FPA)*.

Example: *The FPA is signed by the coordinator on 30 December 2014 and by the Commission on 5 January 2015. The starting date of the partnership is 1 February 2015.*

2. Framework partnership duration

The framework partnership duration may not exceed four years, except in duly justified exceptional cases *(e.g. to align it with the duration of the Horizon 2020 Programme)*.

The FPA duration can NOT be extended (i.e. it is not possible to request an amendment extending the duration). The duration of an FPA only determines the moment up to which SGAs can be signed. The SGAs can still be implemented after the end of the framework partnership.

All SGAs must be signed before the end of the FPA.

⚠ Certain provisions of the FPA will continue to apply for the on-going SGAs even if the FPA has ended.

ARTICLE 4 — RIGHTS AND OBLIGATIONS UNDER THE FRAMEWORK PARTNERSHIP

ARTICLE 4 — RIGHTS AND OBLIGATIONS UNDER THE FRAMEWORK PARTNERSHIP

4.1 Obligation to properly implement the framework partnership

The partners must respect the objectives of the framework partnership and implement it as described in Annex 1 and endeavour to achieve those objectives also in the specific actions.

The partners must maintain relations of mutual co-operation and regular and transparent exchanges of information with the *[Commission][Agency]* on:

- the implementation and follow-up of the action plan and the specific grants and
- other matters of common interest related to the Framework Partnership Agreement.

The partners must implement the framework partnership in compliance with Articles 39, 40, 41, 42, 44, 45, 52 — *mutatis mutandis*.

4.2 Consortium agreement

***[OPTION 1 to be used, unless the work programme specifies that there is no need for a consortium agreement**: The partners must have internal arrangements regarding their operation and co-ordination to ensure that the framework partnership and the specific actions are implemented properly. These internal arrangements must be set out in a written '**consortium agreement**' between the partners, 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 partner is in breach of its obligations) (see Subsection 3 of Chapter 3);*
- *settlement of internal disputes;*
- *liability, indemnification and confidentiality arrangements between the partners.*

The consortium agreement must not contain any provision contrary to the Framework Partnership Agreement and the Specific Agreements.]

***[OPTION 2:** Not applicable]*

1. Consortium agreement

As a general rule, the partners must conclude a FPA consortium agreement to ensure a smooth and successful implementation of the framework partnership and the specific actions (like for GAs; *see Article 41.3 H2020 General MGA*).

⚠ If necessary, the consortium may decide to have — in addition to the FPA consortium agreement — **specific consortium agreements for each SGA**. In this case, the consortium will need to ensure a mechanism to settle possible conflicts between the different consortium agreements.

ARTICLE 5 — SUSPENSION OF FRAMEWORK PARTNERSHIP IMPLEMENTATION

ARTICLE 5 — SUSPENSION OF FRAMEWORK PARTNERSHIP IMPLEMENTATION

The parties may **suspend the implementation of the framework partnership** on the grounds and according to the procedure — *mutatis mutandis* — set out in Article 55.

If the framework partnership implementation is suspended, all specific actions are also suspended (see Article 55) — from the date of suspension of the framework partnership.

1. Suspension of framework partnership implementation

The rules on suspension of framework partnership implementation are similar to GA suspension *(see Article 49 H2020 General MGA)*.

FPA suspension automatically supends all on-going specific actions.

Amendments (to resume the action) after a suspension can NOT have the effect of extending the FPA duration set out in Article 3 FPA.). The duration of an FPA only determines the moment up to which SGAs can be signed An SGA can be implemented *after* the end of the framework partnership.

ARTICLE 6 — TERMINATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE PARTNERS

ARTICLE 6 — TERMINATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE PARTNERS

6.1 Termination of the Agreement

The parties may terminate the Framework Partnership Agreement at any time.

The party terminating the Framework Partnership Agreement must formally notify termination to the other party, stating the date the termination will take effect. This date must be after the notification.

Termination of the Framework Partnership Agreement does not release the parties from their obligations under Specific Agreements which have entered into force before the date on which the termination takes effect, unless they have been terminated.

Neither party may claim damages due to termination by the other party.

6.2 Termination of the participation of one or more partners

The parties may terminate participation of one or more partners in the framework partnership on the grounds and according to the procedures — *mutatis mutandis* — set out in Article 56.2.1, 56.3.1 and 56.3.2.

The coordinator must submit a request for amendment (see Article 61) to adapt Annex 1 and, if necessary, the addition of one or more new partners (see Article 62).

If the request for amendment is rejected by the *[Commission][Agency]*, the Framework Partnership Agreement may be terminated (see above).

Termination of participation in the framework partnership does not release the partner concerned from its obligations under Specific Agreements. It cannot however participate in specific actions awarded after the date on which the termination takes effect.

1. FPA termination

The FPA can be terminated at any time and on any grounds, without the need for a contradictory procedure between the parties.

⚠ FPA termination has NO effect on ongoing SGAs (— unless they are also terminated; *see Article 56 FPA and Article 20 SGA*). Certain provisions of the FPA will continue to apply for the on-going SGAs even if the FPA is terminated.

2. Partner termination

The parties may terminate the participation of a partner in the framework partnership on similar grounds (and according to similar procedures) as their termination in actions *(see Article 50 H2020 General MGA)*.

⚠ **Different partners at FPA and SGA level (exceptional)** — Partner termination will exceptionally lead to a different consortium composition at FPA and SGA level — unless participation is ended on both levels (and for ALL SGAs).

This is one of the very few cases of a different consortium composition. Normally, consortium composition is the same, but partners/linked third parties can participate as partners not carrying out action tasks for certain specific actions.

Example: *A partner wants to terminate participation in the framework partnership because it no longer has interest in future SGAs (while it wants to finish the ongoing ones it has committed to).*

ARTICLE 9 — ESTIMATED BUDGET AND BUDGET TRANSFERS

ARTICLE 9 — ESTIMATED BUDGET AND BUDGET TRANSFERS

9.1 Estimated budget

The estimated budget for the specific actions is set out in Annex 2 to the Specific Agreements.

It contains the estimated eligible costs and the forms of costs, broken down by partner *[and linked third party]* and **budget category** (Articles 4, 5 , 6 SGA *[and Article 19 FPA]* It also shows, if applicable, the estimated costs of the partners not receiving EU funding, if applicable (see Article 7 SGA) and of the international partners (see Article 12a SGA).

[…]

1. Budget categories

The **budget categories** of the SGA will depend on the type of SGA used.

Example: *For RIA, IA and CSA specific actions, the SGA will use the* ***budget categories*** *of the General MGA:*

- *direct personnel costs*
- *direct costs of subcontracting*
- *direct costs of providing financial support to third parties (if option applies)*
- *other direct costs*
- *indirect costs*
- *specific cost categories (if option applies) (see Article 4 H2020 General MGA).*

ARTICLE 10 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS

ARTICLE 10 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS

10.1 Maximum grant amount

The maximum grant amount for the specific grants is set out in the Specific Agreements (see Article 4 SGA).

10.2 Form of grant, reimbursement rates and form(s) of costs

The form of the grant, reimbursement rate(s), estimated eligible costs and the form(s) of costs of the specific grants are set out in the Specific Agreements (see Article 4 SGA).

10.3 Final grant amount — Calculation

The final grant amount of a specific grant depends on the actual extent to which the specific action is implemented in accordance with the terms and conditions of the Framework Partnership Agreement and the Specific Agreement concerned.

This **amount** is calculated by the *[Commission][Agency]* — when the payment of the balance is made (see Article 17 SGA) — in the following steps:

Step 1 – Application of the reimbursement rates 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 substantial errors, irregularities or fraud or serious breach of obligations

10.3.1 Step 1 — Application of the reimbursement rates to the eligible costs

The reimbursement rate(s) (see Article 4 SGA) are applied to the eligible costs (actual costs, unit costs, flat-rate costs and lump sum costs; see Article 5 SGA) declared by the partners *[and the linked third parties]* (see Article 16 SGA) and approved by the *[Commission][Agency]* (see Article 17 SGA).

10.3.2 Step 2 — Limit to the maximum grant amount

If the amount obtained following Step 1 is higher than the maximum grant amount (see Article 4 SGA), it will be limited to the latter.

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

The specific grant must not produce a profit.

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

The **'specific action's total eligible costs'** are the consolidated total eligible costs approved by the *[Commission][Agency]*.

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

The following are considered **receipts**:

(a) income generated by the specific action; if the income is generated from selling equipment or other assets purchased under the Specific Agreement, the receipt is up to the amount declared as eligible under the Specific Agreement;

(b) financial contributions given by third parties to the partner *[*or to a linked third party*]* specifically to be used for the specific action, and

(c) in-kind contributions provided by third parties free of charge specifically to be used for the specific action, if they have been declared as eligible costs.

The following are however not considered receipts:

(a) income generated by exploiting the specific action's results (see Article 34);

(b) financial contributions by third parties, if they may be used to cover costs other than the eligible costs (see Article 5 SGA);

(c) financial contributions by third parties with no obligation to repay any amount unused at the end of the period set out in Article 3 of the Specific Agreement).

If there is a profit, it will be deducted from the amount obtained following Steps 1 and 2.

10.3.4 Step 4 — Reduction due to substantial errors, irregularities or fraud or serious breach of obligations — Reduced grant amount — Calculation

If the specific grant is reduced (see Article 49), the *[Commission][Agency]* will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations in accordance with Article 49.2) from the maximum grant amount (see Article 4 SGA).

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.

10.4 <u>Revised final grant amount</u> — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 28) — the *[Commission][Agency]* rejects costs (see Article 48) or reduces the specific grant (see Article 49), it will calculate the **'revised final grant amount'** for the partner concerned by the findings.

This **amount** is calculated by the *[Commission][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 *[Commission][Agency]* for the partner concerned;
- in case of **reduction of the specific grant**: by calculating the concerned partner's share in the grant amount reduced in proportion to to the seriousness of the errors, irregularities or fraud or breach of obligations (see Article 49.2).

In case of **rejection of costs and reduction of the specific grant**: the revised final grant amount for the partner concerned will be the lower of the two amounts above.

1. Form of grant — Reimbursement rates — Cost form(s)

The form of grant, reimbursement rates and cost form(s) of the SGA will depend on the type of SGA used.

> ***Example:*** *For RIA, IA and CSA actions, the SGA will use the form of grant, reimbursement rates and* ***forms of costs*** *of the General MGA (see Article 4 SGA and Article 5 H2020 General MGA)*

2. Calculation of the final grant amount — Calculation of a revised final grant amount

Similarly, the rules on the calculation of the final grant amount and a revised final grant amount will depend on the type of SGA used.

ARTICLE 11 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 11 — ELIGIBLE AND INELIGIBLE COSTS

11.1 Eligible Costs

The general and specific conditions for costs to be eligible under the specific grants are set out in the Specific Agreements (see Article 5 SGA).

11.2 Ineligible costs

The conditions under which costs are considered ineligible under the specific grants are set out in the Specific Agreements (see Article 5 SGA).

11.3 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 48).

This may also lead to any of the other measures described in Section 5.

1. Eligible costs

The specific eligibility conditions, applicable per budget category, are set out in Article 5 SGA.

The SGA will use the **budget categories** that belong to the type of specific action, with the same **types of costs**, **eligibility conditions** and **calculation rules**.

> ***Example:*** *For RIA, IA or CSA specific actions, the budget categories, types of costs, eligibility conditions and calculation rules of the General MGA will apply (see Article 5 SGA and Article 6 H2020 General MGA).*

ARTICLE 13 — RESOURCES TO IMPLEMENT THE SPECIFIC ACTIONS — THIRD PARTIES INVOLVED IN THE SPECIFIC ACTIONS

ARTICLE 13 — RESOURCES TO IMPLEMENT THE SPECIFIC ACTIONS — THIRD PARTIES INVOLVED IN THE SPECIFIC ACTIONS

The rules on the resources to implement the specific actions and involvement of third parties in the action are set out in the Specific Agreements (see Article 6 SGA).

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

The rules on third party involvement will depend on the type of SGA used.

Example: *For RIA, IA and CSA specific actions, the SGA will use the rules on third party involvement of the General MGA (see Article 8 H2020 General MGA).*

Linked third parties must already be identified in the FPA *(see Article 19 FPA)*. Their specific activities must then be set out in the specific actions.

Examples:

1. *Third parties making resources available against payment or free of charge (see Articles 9 and 10 FPA) must be identified in Annex I of the SGA.*

2. *Linked third parties carrying out specific action task must be identified in the FPA and also in Annex I of the relevant SGAs*

⚠ **Linked third parties —** Linked third parties are allowed to *fully* participate in the framework partnership and specific actions, like the partner they are linked to.

Linked third parties can NOT however do more than their partners: If a linked third party wants to participate in a specific action, its partner must also be active in that action (i.e. NOT be partner not carrying out action tasks). If the partner does not want to, the linked third party could itself become a partner of the FPA and SGA (— after the consortium composition is changed).

ARTICLE 62 — ACCESSION TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS

ARTICLE 62 — ACCESSION TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS

62.1 Accession of the partners mentioned in the preamble

The other partners must accede to the Framework Partnership Agreement by signing the Accession Form (see Annex 3) in the electronic exchange system (see Article 58) — within 30 days after its entry into force (see Article 64). ***[OPTION if Article 19 applies and joint and several liability has been requested:*** *and for partners for which the [Commission][Agency] has requested joint and several liability of a linked third party, by also submitting — at accession to the Framework Partnership Agreement — a declaration on joint and several liability (see Annex 3a) signed by the third party.****]***

All partners having acceded to the Framework Partnership Agreement must be part of the Specific Agreements. The partners will accede to the Specific Agreements by signature of the coordinator (see mandate in Annex 3).

They will assume the rights and obligations under the Agreements with effect from the date of their entry into force (see Article 64 and Article 21 SGA).

If a partner does not accede to the Framework Partnership 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 plan. This does not affect the *[Commission's][Agency's]* right to terminate the agreements (see Articles 6 and 56).

1. Accession to the FPA and SGAs

While the coordinator signs the FPA, the other partners must accede to the FPA by means of the Accession Forms.

In doing so, they mandate the coordinator:

- to submit and sign in their name and on their behalf any amendments to the framework
- to sign in their name and on their behalf any SGA that may be awarded.

⚠ The SGAs are signed ONLY by the coordinator. The other partners do NOT need to sign accession forms for the SGAs.

62.2 Addition of new partners

In justified cases, the partners may request the addition of a new partner.

For this purpose, the coordinator must submit a request for amendment of the Framework Partnership and the Specific Agreements in accordance with Article 61. It must include an Accession Form (see Annex 3) signed by the new partner in the electronic exchange system (see Article 58).

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

1. Addition of a new partner

New partners can be added at any moment of the framework partnership.

Same partners at FPA and SGA level — Partners must generally be the same at FPA and SGA level. The new partner must therefore be added at both levels.

Before any SGA has been concluded, only the FPA must be amended.

Once an SGA has already been concluded, both the FPA and the SGA must be amended.

The coordinator must first submit a request for the FPA amendment (which will automatically include the change in the consortium composition for the SGAs — the new beneficiary is added (automatically) as 'inactive' to all signed SGAs under that FPA).

The coordinator must then request for each SGA a separate amendment to activate the new beneficiary *(e.g. to change Annex 1, Annex 2)*.

The conditions for accepting new partners are the same as under the General MGA *(see Article 56.2 H2020 General MGA)*.

ARTICLE 63 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

ARTICLE 63 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

63.2 Dispute settlement

If a dispute concerning the interpretation, application or validity of the Framework Partnership Agreement or a Specific 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).

[additional OPTION for non-EU partners (except partners established in an associated country with an association agreement to Horizon 2020 that stipulates sole jurisdiction of the European Court of Justice)*: As an exception, if such a dispute is between the [Commission][Agency] and [insert non-EU partner(s) name(s)], the competent Belgian courts have sole jurisdiction.****]***

[additional OPTION for international organisations and for partners not eligible for EU funding which according to their national law cannot be subject to the jurisdiction of the Belgian courts: As an exception, *for the following partners:*

- *[insert name of international organisation or partner not eligible for EU funding]*
- *[insert name of international organisation or partner not eligible for EU funding]*

[same for other partners that are international organisations or partner not eligible for EU funding]

such disputes must — if they cannot be settled amicably — be referred to arbitration. Each party must formally notify to the other party its intention of resorting to arbitration and the identity of the arbitrator. 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 Framework Partnership Agreement will apply. 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 sanctions, offsetting or an enforceable decision under Article 299 TFEU (see Articles 50, 51 and 52), the partners 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 always be brought against the Commission (not against the Agency — even in Agency specific grants).

1. Dispute settlement

The rules on dispute settlement are similar to those of the General MGA *(see Article 57.2 H2020 General MGA)*.

However for FPAs, the Commission/Agency will determine already at FPA-level which partners must participate as 'beneficiaries not receiving EU funding' — because of a general issue with the jurisdiction clause (i.e. Belgian courts). Those beneficiaries can NEVER receive EU funding.

All other partners' status will be determined at SGA-level. Thus, partners from eligible countries (EU Member State, H2020 associated country or third country listed in General Annex A to the Main Work Programme) may participate as normal partners or as 'partners not receiving EU

funding'. Partners from non-eligible countries may participate as 'partners not receiving EU funding' or — exceptionally — be granted funding.

VIII.3 H2020 SGA: Annotations

SPECIFIC AGREEMENT

NUMBER [insert number] — [insert acronym]

This '**Specific Agreement**' is between the following parties:

on the one part,

***[OPTION 1**: the **European Union** ('the EU', represented by the European Commission ('the Commission')[2],]*

***[OPTION 2:** the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('the Commission')[3],]*

***[OPTION 3:** the [**Research Executive Agency (REA)**] [**European Research Council Executive Agency (ERCEA)**] [**Innovation and Networks Executive Agency (INEA)**] [**Executive Agency for Small and Medium-sized Enterprises (EASME)**] ('the Agency'), under the powers delegated by the European Commission ('the Commission')[4],]*

represented for the purposes of signature of this Specific Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname],[5]

and

on the other part,

1. 'the coordinator':

[**full official name** (**short name**)],established in [official address in full], *[**OPTION for partners with VAT:** VAT number [insert number]], [**OPTION for coordinators not receiving EU funding:** as 'partner not receiving EU funding' (see Article 7),]* represented for the purposes of signing the Specific Agreement by [function, forename and surname],

and the following other **partners**, represented for the purposes of signing the Specific Agreement by the coordinator (see the mandate in Annex 3 FPA and Article 62 FPA):

2. [**full official name**] (**short name**)], established in[official address in full], *[**OPTION FOR partners with VAT:** VAT number [insert number]],*

***[OPTION for partners not carrying out action tasks under this SGA:** X. [**full official name (short name)**], established in [official address in full], [**OPTION for partners with VAT:** VAT number [insert number]], as 'partner not carrying out action tasks',]*

***[OPTION for partners not receiving EU funding:** X. [**full official name (short name)**], established in [official address in full], [**OPTION for partners with VAT :** VAT number [insert number]], as 'partner not receiving EU funding' (see Article 7),]*

[same for each partner]

***[OPTION if the JRC is a partner:** and X. the **Joint Research Centre (JRC)** established in [official address in full], if it signs the Administrative Arrangement (see Annex 5)].*

By entering into the Specific Agreement ***[OPTION if the JRC is a partner:*** *or the Administrative Arrangement]*, the partners accept the grant and agree to implement the specific action, under their own responsibility and in accordance with the Framework Partnership Agreement and this Specific Agreement, with all the obligations and conditions they set out.

The Specific Agreement is composed of:

Terms and Conditions

Annex 1 Description of the action

Annex 2 Estimated budget for the action

Annex 2a Additional information on the estimated budget

Annex 3 Model for the financial statements

Annex 4 Model for the certificate on the financial statements

[OPTION if the JRC participates: *Annex 5: Administrative Arrangement]*

[2] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[3] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[4] Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.
[5] The person representing the 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*'.

1. Participants: Partners — Partners not carrying out action tasks under the SGA — Linked third parties

The partners of a SGA are generally the **same as the partners of the FPA** *(see Article 62.1 FPA)*.

⚠ **Same partners at FPA and SGA level** — Partners must generally be the same at FPA and SGA level. An entity that is not partner/linked third party in the FPA cannot become party in the SGA. Conversely, all partners/linked third parties to the FPA become parties to the SGA.

However, not all partners of a framework partnership must actively participate in all specific actions.

Partners (and linked third parties) who do NOT actively participate in a specific action are **partners not carrying out action tasks** under that Specific Agreement (and must be identified as such in the preamble to the SGA).

⚠ **Partners not carrying out action tasks —** They formally participate in the action as partners, but NOT with any action tasks or EU funding. In practice, most of the obligations therefore do not apply to them for that specific action.

Linked third parties — If a partner participates as not carrying out action tasks, its **linked third parties** get the same status. They can NOT actively participate in the specific action (— unless they themselves become partners of the FPA and SGA).

These partners are formally part of the consortium for the SGA (and are parties to this SGA, meaning that the coordinator signs also in their name).

They will be identified in Annex 1 as 'partners not carrying action tasks' (as they do not carry out any action tasks). Moreover, they will also be mentioned in Annex 2 with zero costs.

Formally, the rights and obligations under the FPA and SGA fully apply to them. In practice however, many of them *(e.g. implementation, deliverables, technical and financial reporting, keeping of supporting documents, financial or technical audits or reviews, IPR results, access to background and results of others, etc.)* are NOT applicable because these partners do not carry out action tasks and do not receive any EU funding. Other obligations remain relevant *(e.g. checks, information obligations, confidentiality)*.

SGAs are **signed** by the coordinator on behalf of the other partners *(see Article 62.1 FPA)*.

The documents must be signed directly in the Participant Portal.

The other partners do NOT need to sign Accession Forms.

Other entities involved in a specific action which do not sign the SGA (including **linked third parties**) are considered as '**third parties involved in the specific action**'.

ARTICLE 17 — PAYMENTS AND PAYMENT ARRANGEMENTS

ARTICLE 17 — PAYMENTS AND PAYMENT ARRANGEMENTS

[…]

17.7 Payments to the coordinator — Distribution to the partners

Payments will be made to the coordinator.

Payments to the coordinator will discharge the *[Commission][Agency]* from its payment obligation.

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

Pre-financing may however be distributed only:

a) if the **minimum number of partners** set out in the call for proposals has acceded to the Framework and Specific Agreement (see Article 62 FPA) and

b) to partners that have entered into the Specific Agreement (see Article 62 FPA).

[…]

1. Minimum number of partners

The minimum number of partners generally depends on the type of specific action.

For SGAs, the minimum number of partners will be explicitly indicated in the call for proposals (or — if there is no call for proposals — in the work programme and the invitation to submit a proposal). The minimum numbers of partners refers to the partners implementing the specific action.

Same partners at FPA and SGA level — If a specific action requires more partners than are currently in the framework partnership, the FPA first needs to be enlarged.

IX. Lump sum MGA

IX.1 Background information and approach

The Lump sum Model Grant Agreement (H2020 MGA Lump sum) is used mainly for coordination and support actions (CSA) and, exceptionally, for research and innovation actions (RIA) and innovation actions (IA) — if the work programme/call provides for a lump sum grant.

Example: *H2020-INNOSUP-2014-5*

The MGA Lump sum follows the General MGA for numbering and content, except for:

The H2020 MGA Lump sum deviates from the General MGA as follows:

- Article 4 (estimated budget of the action)
- Article 5 (maximum grant amount, form of grant and reimbursement rate)
- Article 6 (lump sum specific form of costs)
- Article 7 (specific provision for lump sum)
- Article 8 (specific provision for third parties)
- Articles 9, 11, 12, 16 (not applicable)
- Article 18 (specific provision for record-keeping)
- Article 20 (specific reporting provisions)
- Article 21 (specific payment provisions)
- Article 42 (specific provision for lump-sum)
- Article 44 (specific provisions for lump sum)
- Article 49 (specific provision for suspension of action implementation)
- Article 50 (specific provision for lump-sum)

- Annex 2 Model for the estimated budget for the action
- Annex 3 Accession form for beneficiaries
- Annex 4 Model for the financial statement
- Annex 7 Model for the request for further pre-financing payment(s)

The annotations will concentrate on differences in substance and interpretation that require explanation.

Parts that do not apply or differ only in presentation *(e.g. Articles 4.2, 9, 11, 12, 16, 20.5, 21.3, 25.5, Annexes)* will not be shown.

The annotations are based on the multi-beneficiary version, since it is the most common for lump sum actions. Where there are significant differences (i.e. Articles 21, 41, 44, 49 and 50), the mono-beneficiary version of the Article is shown.

IX.2 H2020 MGA lump sum: Annotations

ARTICLE 2 — ACTION TO BE IMPLEMENTED

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]

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

[OPTION for complementary grants if foreseen in the work programme: *The grant is a '**complementary grant**' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- *[insert number] [insert acronym]*
- *[insert number] [insert acronym]].**]***

[OPTION for joint actions (joint call with a third country or an international organisation)*: The action is a '**jointly funded action**' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.**]***

1. CSA, RIA and IA lump sum actions

What? Lump sum grants fund (mainly) **coordination and support actions (CSA)** and (exceptionally) **research and innovation actions (RIA)** or **innovation actions (IA)** — if the work programme/call provides for a lump sum grant.

For definitions and more information on CSA, RIA and IA actions, *see Article 2 of the H2020 General MGA, the Online Manual and the H2020 grants fact sheets on the Participant Portal.*

CSA, RIA and IA lump sum actions may be mono- or multi-beneficiary actions.

They can be funded in all Parts of Horizon 2020 *(e.g. H2020-INNOSUP-2014-5).*

ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

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 budget category, the estimated eligible costs and the form of costs (see Articles 5 and 6).

4.2 Budget transfers

Not applicable

1. Budget category

The MGA Lump sum does not use the budget categories of the General MGA.

Since these grants consist in a single lump sum, there is only one budget category.

Budget category of the MGA Lump sum:

- costs (direct and indirect costs)

The budget categories are relevant for the estimated budget (Article 4 and Annex 2), forms of costs (Article 5), cost eligibility rules (Article 6.2) and the cost declarations (i.e. financial statements; Article 20 and Annex 4).

ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATE AND FORM OF COSTS

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 rate and form of costs

The grant reimburses *[**OPTION 1 for research and innovation actions (RIA) and coordination and support actions (CSA): 100 %** of the action's eligible costs] [**OPTION 2 for innovation actions (IA): 70%** of the action's eligible costs]*[8]*[**OPTION 3 for exceptional cases if foreseen in the work programme: […%]** 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 as the lump sum set out in Annex 2 (i.e. under the form of '**lump sum costs**').

[8] For the definition, see Article 2.1 (6) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014 – 2020)' ('**Rules for Participation Regulation No 1290/2013**') (OJ L 347, 20.12.2013 p. 81): '**innovation action**' means an action primarily consisting of activities directly aiming at producing plans and arrangements or designs for new, altered or improved products, processes or services. For this purpose they may include prototyping, testing, demonstrating, piloting, large-scale product validation and market replication.

1. Maximum grant amount — Reimbursement rate — Cost forms

How much & which form? The MGA Lump sum does not use the **cost forms** of the General MGA, but is a **lump sum grant**.

The use of the lump sum will be set out in the work programme/call.

The lump sum will be set to give a round amount when the reimbursement rate is applied (— important if the reimbursement rate is not 100%). It is one amount (for the entire consortium).

The eligibility conditions are set out in Article 6. If the action is correctly implemented, the beneficiaries are entitled to receive this fixed amount of EU funding (lump sum).

⚠ The lump sum is deemed to cover ALL (direct and indirect) costs that are incurred for the action. NO other costs will be reimbursed.

5.3 Final grant amount — Calculation

The '**final grant amount**' depends on the proper implementation of the action in accordance with the Agreement's terms and conditions.

This amount is calculated by the *[Commission][Agency]* — when the payment of the balance is made (see Article 21) — in the following steps:

Step 1 — Application of the reimbursement rate

Step 2 — Reduction due to substantial errors, irregularities or fraud or serious breach of 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 (lump sum costs; see Article 6) declared by the consortium and approved by the *[Commission][Agency]* (see Article 21).

5.3.2 Step 2 — Reduction due to substantial errors, irregularities or fraud or breach of obligations— Reduced maximum grant amount — Calculation

If the grant is reduced (see Article 43), the *[Commission][Agency]* will calculate the reduced maximum grant amount by deducting the amount of the reduction (calculated in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations, in accordance with Article 43.2) from the maximum grant amount set out in Article 5.1.

In this case, the final grant amount will be the lower of the following two:

- the amount obtained in Step 1 or
- the amount obtained in Step 2.

1. Final grant amount

For Lump sum grants, the rules on the calculation of the final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since they are lump sum grants (and the amount declared is pre-filled by the system), there is NO:

- limit to the maximum grant amount or
- reduction due to the no-profit rule.

5.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 22) — the *[Commission][Agency]* rejects costs (see Article 42) or reduces the grant (see Article 43), it will calculate the '**revised final grant amount**'.

This **amount** is calculated by the *[Commission][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 *[Commission][Agency]*;

- in case of **reduction of the grant**: in proportion to the seriousness of the errors, irregularities or fraud or breach of obligations (see Article 43.2).

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

1. Revised final grant amount

For Lump sum grants, the rules on the calculation of the revised final grant amount are in principle the same as in the General MGA *(see Article 5.3 H2020 General MGA)*.

However, since they are lump sum grants, improper implementation of the action leads to *ineligibility* of the costs (NOT to the *reduction* of the grant). Therefore, the grant reduction mentioned in this provision does not relate to improper implementation of the action (but only to other breaches and substantial errors, irregularities and fraud; *see Article 43*).

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 Eligible costs

Costs for the budget category:

A. Costs for the action (direct and indirect costs)

are eligible ('eligible costs'), if they correspond to the lump sum set out in Annex 2 and if the corresponding tasks or parts of the action have been properly implemented in accordance with Annex 1.

6.2 Ineligible costs

'**Ineligible costs**' are:

(a) costs that do not comply with the conditions set out above (see Article 6.1) and

(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 *[Commission][Agency]* for the purpose of implementing the EU and Euratom budget.

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

6.3 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

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

1. Eligible costs

The MGA Lump sum has its **own budget category**, with its own **types of costs**, **eligibility conditions** and **calculation rules**.

2. Costs for the action (A.): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? The budget category A 'costs' **covers** the (direct and indirect) costs for the action.

⚠ The lump sum is deemed to **cover ALL** (direct and indirect) **costs** that are incurred for the action. NO other costs will be reimbursed.

2.2 These costs must be **declared as** the **amount** set out in the work programme/call.

In practice the declaration of costs for Lump sum grants is completely automatized. The coordinator only needs to sign and submit the financial statement (pre-filled by the IT system).

2.3 They must fulfil the following **eligibility conditions**:

- the action tasks must have been carried out as described in Annex 1.

2.4 NO **calculation** is necessary (since it is a fixed global amount).

By signing the financial statement (for multi-beneficiary actions: one common financial statement for the consortium; *see Article 20*), the beneficiaries automatically declare the amount set out in the work programme/call as the total eligible costs of the action (the amount is fixed and pre-filled by the IT system).

ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT 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 does not properly implement the action (or part of it), the corresponding costs will be ineligible (see Article 6) and will be rejected (see Article 42).

If a beneficiary breaches any other obligation, the grant may be reduced (see Article 43).

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

1. Consequences of improper implementation

Since the Lump sum grant consists in a lump sum, 'improper implementation of the action not in accordance with Annex 1' does NOT lead to a *reduction* of the grant, but to the *ineligibility* of the costs (*see Article 6.1*).

⚠ If the action is not carried out as described in Annex 1, costs will be **rejected** proportionally to the tasks or parts of the action not implemented *(see Article 42)*.

By contrast, in case of other serious breaches the grant may be *reduced (see Article 43)*.

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

ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION — THIRD PARTIES 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 10);
- call upon subcontractors to implement action tasks described in Annex 1 (see Article 13);
- call upon linked third parties to implement action tasks described in Annex 1 (see Article 14).
- call upon international partners to implement action tasks described in Annex 1 (see Article 14a).

In these cases, the beneficiaries retain sole responsibility towards the *[Commission][Agency]* for implementing the action.

1. Participants: Appropriate own resources — Use of third party resources — Third parties involved in the action

The rules of the General MGA on third party involvement are only partly applicable.

The rules on third party involvement in lump sum actions are limited to purchases (Article 10), subcontracting (Article 13) and **linked third parties** (Article 14 H2020 General MGA).

The provisions on in-kind contributions (Articles 11 and 12 H2020 General MGA) do NOT apply — since, for Lump sum grants, in-kind contributions are not linked to any specific conditions. (Specific rules are only needed where a grant reimburses *actual* costs).

For all types of third party involvement (purchases, subcontracts, linked third parties, in-kind contributions), the **costs** are **ALL covered** by the lump sum. NO other costs will be reimbursed.

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES

10.1 Rules for purchasing goods, works or services

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 35).

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 22 and 23 also towards their contractors.

Beneficiaries that are 'contracting authorities' within the meaning of Directive 2004/18/EC[9] (or 2014/24/EU)[10] or 'contracting entities' within the meaning of Directive 2004/17/EC[11] (or 2014/25/EU)[12] 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 this Article, the grant may be reduced (see Article 43).

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

[9] Directive 2014/18/EC of the European Parliament and of the Council of 31 March 2014 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).

[10] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p. 65).

[11] 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).

[12] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

1. Purchase of goods, works or services

The rules on contracts for the purchase of goods, works or services for Lump sum actions are almost identical to the General MGA *(see Article 13 H2020 General MGA)*.

The obligations in Article 10.1.1 are however NOT considered to be additional cost eligibility conditions, but *'other obligations'*. In case of breach, the Commission/Agency may therefore reduce the grant in proportion to the seriousness of the breach (instead of rejecting the costs).

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

13.1 Rules for subcontracting action tasks

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 35).

[OPTION for classified information: *Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the [Commission][Agency] (see Article 37).****]***

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 22 and 23 also towards their subcontractors.

The beneficiaries must ensure that their obligations under Articles 35, 36, 38 and 46 also apply to the subcontractors.

Beneficiaries that are 'contracting authorities' within the meaning of Directive 2004/18/EC (or 2014/24/EU) or 'contracting entities' within the meaning of Directive 2004/17/EC (or 2014/25/EU) must comply with the applicable national law on public procurement.

13.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

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

1. Subcontracting

The rules on subcontracting for lump sum actions are similar to the General MGA *(see Articles 8 and 13 H2020 General MGA)*.

The MGA Lump sum has however the **following specificities**:

The estimated costs do NOT have to be included in Annex 1 or shown in the table of estimated costs of Annex 2 (since they are covered by the lump sum).

The obligations in Article 13.1 are NOT considered to be additional cost eligibility conditions, but '*other obligations'*. In case of breach, the Commission/Agency may therefore reduce the grant in proportion to the seriousness of the breach (instead of rejecting the costs).

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

18.1 Obligation to keep records and other supporting documentation

The beneficiaries must — for a period of ***[OPTION 1 by default:*** *five]****[OPTION 2 for low value grants[18]:*** *three]* years after the payment of the balance — keep adequate records and other supporting documentation to prove the proper implementation of the action and the costs they declare as eligible.

They must make them available upon request (see Article 17) or in the context of checks, reviews, audits or investigations (see Article 22).

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 22), 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 *[Commission][Agency]* may accept non-original documents if it considers that they offer a comparable level of assurance.

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

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

18.1.2 Records and other documentation to support the costs declared

The beneficiaries must keep adequate records and documentation and other supporting documentation to prove that the corresponding tasks or part of the action as described in Annex 1 were implemented properly. The beneficiaries do not need to identify the actual eligible costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared as a lump sum.

18.2 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 42).

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

[18] 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.

1. Records and other supporting documentation

For lump sum actions, beneficiaries do not need to keep full records on their actual costs; they only need to keep the evidence (documentation, records) that the action's tasks (as described in Annex 1) were properly carried out.

Such records and supporting documentation must:

- refer to the scientific and technical implementation of the action in line with the accepted standards in the respective field *(see Article 18 General MGA)* and
- prove that the corresponding tasks or part of the action allocated to the beneficiary as described in Annex 1 were implemented properly *(see Article 18 H2020 General MGA)*.

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

ARTICLE 20 — REPORTING — PAYMENT REQUESTS

20.1 Obligation to submit reports

The coordinator must submit to the *[Commission][Agency]* (see Article 52) the reports set out in this Article. These reports include the request for payment and must be drawn up using the forms and templates provided in the electronic exchange system (see Article 52).

20.2 Reporting periods

The action is divided into the following '**reporting periods**':

- RP1: from month 1 to month [X]

[*- 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].****]***

20.2a Periodic reports — Requests for further pre-financing payments

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

The report must detail the exploitation and dissemination of the results and — if required in Annex 1 — an updated '**plan for the exploitation and dissemination of the results**'.

The report must indicate the communication activities;

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

(iv) the answers to the '**questionnaire**', covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements;

(b) a **'statement on the use of the previous pre-financing instalment',** including **the request for a further pre-financing payment** (Annex 7).

20.3. Requests for interim payments

Not applicable.

20.4 Final report — Request for payment of the balance

The coordinator must submit to the *[Commission][Agency]* (see Article 52) — within 60 days following the end of the reporting period — a final report, which includes the request for payment of the balance.

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

(a) a '**final technical report**' containing a **summary** with:

(iv) an overview of the results;

(v) the conclusions on the action;

(vi) the answers to the '**questionnaire**', covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements.

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

(i) a '**financial statement**' from the consortium (see Annex 4), which includes the **request for payment of the balance**.

The financial statement must detail the eligible costs (lump sum costs; see Article 6 and Annex 2).

Amounts which are not declared in the financial statement will not be taken into account by the *[Commission][Agency]*.

The consortium must **certify** that:

- the information provided is full, reliable and true;
- the costs declared are eligible (i.e. that the action has been properly implemented; see Article 6);
- the costs (i.e. the proper implementation of the action) can be substantiated by adequate records and supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22).

(ii) ***[OPTION 1 if the JRC is a beneficiary:*** *information on the amount of the payment of the balance to be paid by the [Commission][Agency] to the Joint Research Centre (JRC);****][OPTION 2 :*** *not applicable****]***

20.5 Information on cumulative expenditure incurred

Not applicable

20.6 Currency for financial statements

The financial statement must be drafted in euro.

20.7 Language of reports

The reports must be submitted in the language of the Agreement.

20.8 Consequences of non-compliance

If the reports submitted do not comply with this Article, the *[Commission][Agency]* may suspend the payment deadline (see Article 47) 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, the *[Commission][Agency]* may terminate the Agreement (see Article 50) or apply any of the other measures described in Chapter 6.

1. Reports

When & What? For lump sum actions, the coordinator has to submit — after each reporting period — a **periodic technical report**, with information on the technical implementation.

NO financial report is needed during the action (i.e. no financial statements before the final report). The coordinator only has to sign and submit a statement on the use of the previous pre-financing instalment (which includes also the request for further pre-financing payments; *see Article 7*).

List of documents for the periodic reports:

- explanation of the work carried out
- overview of the progress
- summary for publication
- questionnaire (i.e. the structured information requested)
- statement on the use of the previous pre-financing instalment

At the end of the action, the coordinator has to submit a **final report** with both the technical and financial report.

2. Reporting periods

When? The lump sum actions are normally divided into several reporting periods and each reporting period triggers a further pre-financing.

Each reporting period triggers a periodic report.

3. Final financial report: Financial statement

The financial statement (one common financial statement for the consortium) is automatically pre-filled by the system (with the amount set out in the work programme/call as final grant amount; *see Article 5*).

ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

MONO-BENEFICIARY: ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

21.1 Payments to be made

The following payments will be made to the beneficiary:

- a *[first]* **pre-financing payment;**
- *[a **second pre-financing** payment, on the basis of the request for a second pre-financing payment (see Article 20);]*
- *[a **third pre-financing** payment, on the basis of the request for a third pre-financing payment (see Article 20);]*
- *[same for more pre-financing payments]*
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20)

21.2 Pre-financing payment — Amount — Amount retained for the Guarantee Fund

[OPTION 1 by default: *The aim of the pre-financing is to provide the beneficiary with a float.*

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

*The [Commission][Agency] will — within 30 days, either from the entry into force of the Agreement (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest — make a first pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Article 48 applies.*

*From this amount, an amount of EUR [**insert amount** (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the [Commission][Agency] and transferred into the '**Guarantee Fund**'.*

[OPTION in case of two pre-financing payments: *The [Commission][Agency] will — within 60 days after receiving the request (see Article 20) — make a second pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Articles 47 or 48 apply.*

*If the statement on the use of the previous pre-financing instalment shows that less than 70% of the previous instalment paid has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70% threshold and the amount used.**]***

[OPTION in case of three pre-financing payments: *The [Commission][Agency] will — within 60 days after receiving the request (see Article 20) — make a third pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)], except if Articles 47 or 48 apply.*

*If the statement on the use of the previous pre-financing instalment shows that less than 70% of the previous instalment paid has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70% threshold and the amount used.**]***

*[same for more pre-financing payments]**]***

[OPTION 2a if JRC is the beneficiary: *The [DG][Agency] will make a [first] pre-financing payment to the coordinator of EUR [**insert amount including the 5% to be paid to the Guarantee Fund** (insert amount in words)] within 30 days from the submission of a debit note from the JRC after the signature of the 'Agreement'.*

*The JRC agrees that the amount of EUR [**insert amount: 5% of the grant amount intended for the JRC** (insert amount in words)], corresponding to its contribution to the Guarantee Fund (see Article 21.2), is transferred in its name by the [DG][Agency] to the Guarantee Fund.*

[OPTION if the JRC is the beneficiary and in case of two pre-financing payments: *The [DG][Agency] will make a second pre-financing payment to the coordinator of EUR [**insert amount** (insert amount in words)] within 30 days from the submission of a debit note from the JRC after the signature of the 'Agreement'.*

*If statement on the use of the previous pre-financing instalment shows that less than 70% of the previous instalment paid has been used to cover the costs of the action, the amount of the new pre-financing to be paid will be reduced by the difference between the 70% threshold and the amount used.**]***

*[same for more pre-financing payments]**]***

The total amount of pre-financing payments must not exceed 90% of the maximum grant amount set out in Article 5.1

21.3 Interim payments — Amount — Calculation

Not applicable

21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

The payment of the balance reimburses the remaining part of the eligible costs incurred by the beneficiary 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 44).

If the total amount of earlier payments is lower than the final grant amount, the *[Commission][Agency]* will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 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 *[Commission][Agency]* by deducting the total amount of pre-financing already made, from the final grant amount determined in accordance with Article 5.3:

{final grant amount (see Article 5.3)

minus

pre-financing made**}**.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the beneficiary together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
    - is positive, it will be paid to the beneficiary
    - is negative, it will be recovered from the beneficiary.

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 an*[other]* executive agency (under the EU or Euratom budget), up to the maximum grant amount set out in Article 5.1.

21.5 Notification of amounts due

The *[Commission][Agency]* will formally notify to the beneficiary the amount due and 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 43 and 44.

[…]

MULTI-BENEFICIARY: ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

[…]

21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

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 44).

If the total amount of earlier payments is lower than the final grant amount, the *[Commission][Agency]* will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 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 *[Commission][Agency]* by deducting the total amount of pre-financing already made, from the final grant amount determined in accordance with Article 5.3:

{final grant amount (see Article 5.3)

minus

pre-financing made**}**.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the coordinator together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
  - is positive, it will be paid to the coordinator
  - is negative, it will be recovered from the coordinator.

The amount to be paid may however be offset — without the coordinator's consent — against any other amount owed by the coordinator to the *[Agency, the]* Commission or an*[other]* executive agency (under the EU or Euratom budget), up to the maximum grant amount set out in Article 5.1.

[…]

1. Payments — No interim payments

Lump sum actions are divided into several reporting periods with pre-financing payments (each reporting period triggering a pre-financing).

> Only the first pre-financing payment is automatic. Further pre-financing payments must be requested by the coordinator via a statement on the use of the previous pre-financing payment *(see Article 20)*.

There are NO interim payments.

The balance is paid when the action ends.

2. Amount of pre-financing payment(s)

How much? There is no standard amount (or percentage) for pre-financing payments; the amount is fixed in each GA.

> The total amount of pre-financing can NOT exceed 90 % of the maximum grant amount *(see Article 5.1)*.
>
> The further (i.e. second/third/same for more) pre-financing payment(s) will be **reduced**, if — according to the statement on the use of the previous pre-financing payment — the previous pre-financing was **insufficiently used**:
>
> – if 70% or more of the previous pre-financing has been used: the next pre-financing is paid in full
>
> – if less than 70% of the previous pre-financing has been used: the next pre-financing will be reduced by an amount equal to the difference between the percentage actually used and 70%.
>
> ***Example:***
>
> *Consortium with a maximum grant amount of EUR 400 000 (100% reimbursement rate) and 3 reporting periods.*
> *90% limit of the maximum grant amount: EUR 360 000.*
> *3 Pre-financing payments: EUR 100 000; EUR 120 000 and EUR 140 000.*
> *Statement on the use of previous pre-financing submitted by the Consortium: 70% of the 1st pre-financing and 60% of the 2nd pre-financing payment.*
> *2nd pre-financing payment of EUR 120 000 is paid in full since the consortium used 70% of the 1st pre-financing;*
> *3rd pre-financing to the coordinator must be reduced because the consortium used only 60% of the 2nd pre-financing;*
> *Pre-financing actually used: EUR 120 000 * 60% = EUR 72 000*
> *70% of the 2nd pre-financing payment: EUR 120 000 * 70% = EUR 84 000*
> *Reduction due to 70% consumption rule: EUR 84 000 – EUR 72 000 = EUR 12 000*
> *3rd pre-financing paid to the consortium: EUR 140 000 – EUR 12 000 = EUR 128 000.*

3. Amount of the payment of the balance

The amount of the payment of the balance depends on the overall financial situation at the end of the action, and in particular:

– the amount of pre-financing(s) already paid *(see Article 21 H2020 General MGA)*

– cost rejections (improper implementation of the action; *see Article 42)*

– grant reduction (other serious breaches or substantial errors, irregularities or fraud *see Article 43)*.

ARTICLE 41 — BENEFICIARY'S ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

MONO-BENEFICIARY: ARTICLE 41 —BENEFICIARY' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

41.1 Role and responsibility towards the *[Commission][Agency]*

The beneficiary has full responsibility for implementing the action and complying with the Agreement.

The beneficiary is itself responsible for:

(a) monitoring that the action is implemented properly (see Article 7);

(b) informing the *[Commission][Agency]* immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(c) submitting the deliverables and reports to the *[Commission][Agency]* (see Articles 19 and 20);

(d) submitting to the *[Commission][Agency]* in good time any documents or information required by it

and may not delegate or subcontract these tasks to any third party (including linked third parties).

41.2 Internal division of roles and responsibilities

Not applicable

[…]

MULTI-BENEFICIARY: ARTICLE 41 — DIVISION OF BENEFICIARIES' ROLES AND RESPONSIBILITIES — RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES — RELATIONSHIP WITH PARTNERS OF A JOINT ACTION

41.1 Roles and responsibilities towards the *[Commission][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 *[Commission][Agency]* expressly relieves them of this obligation.

The **financial responsibility** of each beneficiary is governed by Articles 44.

41.2 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 Participant Portal Beneficiary Register (via the electronic exchange system) up to date (see Article 17);

(ii) inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);

(iii) submit to the coordinator in good time:

- the data needed to draw up the technical report (see Article 20);
- ethics committee opinions and notifications or authorisations for activities raising ethical issues (see Article 34);
- 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 *[Commission][Agency]* (in particular, providing the *[Commission][Agency]* with the information described in Article 17), unless the Agreement specifies otherwise;

(iii) request and review any documents or information required by the *[Commission][Agency]* and verify their completeness and correctness before passing them on to the *[Commission][Agency]*;

(iv) submit the deliverables and the report to the *[Commission][Agency]* (see Articles 19 and 20);

(v) ensure that all payments are made to the other beneficiaries without unjustified delay (see Article 21);

(vi) inform the *[Commission][Agency]* of the amounts paid to each beneficiary, when required under the Agreement (see Articles 44 and 50) or requested by the *[Agency][Commission]*.

The coordinator may not delegate or subcontract the above-mentioned tasks to any other beneficiary or third party (including linked third parties).

[OPTION to be used when the coordinator is a secondary or higher education establishment or public body and there is an 'authorisation to administer' given to a third party created, controlled or affiliated to the coordinator: *As an exception, the coordinator delegates the tasks set out in Point 2(b)(v) and (vi) above to [insert name of third party with an authorisation to administer]. The coordinator retains sole responsibility for the EU contribution and for compliance with the obligations under the Agreement.****]***

[…]

1. Division of roles and responsibilities — Responsibilities towards the Commission/Agency

The rules on internal division of roles and responsibilities are similar to the General MGA *(see Article 41 H2020 General MGA)*.

Since for lump sum multi-beneficiary actions there is however only one (common) financial statement *(see Article 20)*, there is NO obligation for the beneficiaries to submit their own individual financial statements to the coordinator.

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

ARTICLE 42 — REJECTION OF INELIGIBLE COSTS

42.1 Conditions

The *[Commission][Agency]* will — **at the payment of the balance** or **afterwards** — reject any costs which are ineligible (i.e. if the action as described in Annex 1 is not properly implemented; see Article 6), in particular following checks, reviews, audits or investigations (see Article 22).

The rejection may also be based on the **extension of findings from other grants to this grant**, (see Article 22.5.2).

42.2 Ineligible costs to be rejected — Calculation — Procedure

Ineligible costs will be rejected proportionally to the tasks or parts of the action not implemented.

If the rejection of costs does not lead to a **recovery** (see Article 44), the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned of the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 21.5). The coordinator or beneficiary concerned may — within 30 days of receiving notification — formally notify the *[Commission][Agency]* of its disagreement and the reasons why.

If the rejection of costs does not lead to a **recovery,** *[Commission][Agency]* will follow the contradictory procedure with '**pre-information letter**' set out in Article 44.

42.3 Effects

If the *[Commission][Agency]* rejects costs **at the payment of the balance**, it will deduct them from the total eligible costs declared, for the action, in the financial statement (see Article 20.4). It will then calculate the payment of the balance as set out in Article 21.4.

If the *[Commission][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 financial statement. It will then calculate the revised final grant amount as set out in Article 5.4.

1. Rejection of ineligible costs

The rules on rejection of ineligible costs are in principle the same as in the General MGA *(see Article 42 H2020 General MGA)*.

However, since Lump sum grants consist in a lump sum, the main cost eligibility condition refers to 'proper implementation of the action in accordance with Annex 1' *(see Article 6.1).* Improper implementation therefore leads to the *ineligibility* of the costs (NOT *reduction* of the grant; *see also Article 7*). If the action is not carried out as described in Annex 1, the costs will be considered ineligible and rejected proportionally to the tasks or parts of the action not implemented.

⚠ 'Rejection of costs' will be made for **improper implementation** of the action (*see Article 7*).

ARTICLE 43 — REDUCTION OF THE GRANT

ARTICLE 43 — REDUCTION OF THE GRANT

43.1 Conditions

The *[Commission][Agency]* may — **at the payment of the balance** or **afterwards** — reduce the maximum grant amount (see Article 5.1), if:

(a) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including submission of false information, failure to provide requested information, breach of ethical principles) or

(b) the beneficiary (or a natural person who has the power to represent or take decision on its behalf) 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 22.5.2).

Improper implementation of the action as described in Annex 1 will not lead to a reduction of the grant but to a rejection of costs (see Article 42).

43.2 Amount to be reduced — Calculation — Procedure

The amount of the reduction will be proportionate to the seriousness of the breach.

Before reduction of the grant, the *[Commission][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 *[Commission][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 21).

43.3 Effects

If the *[Commission][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 21.4).

If the *[Commission][Agency]* reduces the grant **after the payment of the balance**, it will calculate the revised final grant amount for the beneficiary concerned (see Article 5.4). If the revised final grant amount for the beneficiary concerned is lower than its share of the final grant amount, the *[Commission][Agency]* will recover the difference (see Article 44).

1. Reduction of the grant

The rules on rejection of ineligible costs are in principle the same as in the General MGA *(see Article 42 H2020 General MGA)*.

However, since Lump sum grants consist in a lump sum, 'proper implementation of the action in accordance with Annex 1' is an *eligibility* rule and does NOT lead to the *reduction* of the grant *(see also Articles 6.1 and 7)*. The grant may thus be reduced only in case of other serious breaches of obligations or substantial errors, irregularities or fraud*; see Article 43 H2020 General MGA).*

⚠ **Grant reductions** will be made for **substantial errors, irregularities or fraud** and **serious breaches of obligation other than proper implementation**.

ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

MONO-BENEFICIARY: ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

44.1 Amount to be recovered — Calculation — Procedure

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

44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the *[Commission][Agency]* will formally notify a '**pre-information letter**' to the beneficiary:

- informing it of its intention to recover, the amount due as the balance and the reasons why;
- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund, and
- inviting it to submit observations within 30 days of receiving notification.

If no observations are submitted or the *[Commission][Agency]* decides to pursue recovery despite the observations it has received, it will **confirm recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the beneficiary a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. This note will also specify the terms and the date for payment.

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

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

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the]* Commission will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION 1 if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated, for the beneficiary, in the estimated budget (see Annex 2) and/or****][OPTION 2 :*** *not applicable;****]***

(ii) by **taking legal action** (see Article 57) 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 21.11, 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.

44.1.3 Recovery of amounts after payment of the balance

If the revised final grant amount (see Article 5.4) is lower than the final grant amount, the beneficiary must repay the difference to the *[Commission][Agency]*.

The *[Commission][Agency]* will formally notify a **pre-information** letter to the beneficiary:

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

If no observations are submitted or the *[Commission][Agency]* decides to pursue recovery despite the observations it has received, it will **confirm** the amount to be recovered and formally notify to the beneficiary 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 beneficiary's consent — against any amounts owed to the beneficiary by *[the Agency,]* the Commission or an*[other]* executive agency (from the EU or Euratom budget).

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the]* Commission will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION 1 if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated, for the beneficiary, in the estimated budget (see Annex 2) and/or****] [OPTION 2:*** *not applicable;****]***

(ii) by **taking legal action** (see Article 57) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[, Article 106a of the Euratom Treaty]* 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 21.11, 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.

MULTI-BENEFICIARY: ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

44.1 Amount to be recovered — Calculation — Procedure

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

44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the *[Commission][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;
- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund, and
- inviting the coordinator to submit observations within 30 days of receiving notification.

If no observations are submitted or the *[Commission][Agency]* decides to pursue recovery despite the observations it has received, it will **confirm recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the coordinator a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. This note will also specify the terms and the date for payment.

If the coordinator does not repay the *[Commission][Agency]* by the date 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, the]* Commission or an*[other]* executive agency (from the EU or Euratom budget).

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the]* Commission will formally notify the coordinator the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION 1 if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party to the coordinator has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated for the consortium in the estimated budget (see Annex 2) and/or****][OPTION 2:*** *not applicable;****]***

(ii) by **taking legal action** (see Article 57) 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 21.11, 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 coordinator, unless Directive 2007/64/EC applies.

44.1.3 Recovery of amounts after payment of the balance

If the revised final grant amount (see Article 5.4) is lower than the final grant amount, the coordinator must repay the difference to the *[Commission][Agency]*.

The *[Commission][Agency]* will formally notify a **pre-information letter** to the coordinator:

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

If no observations are submitted or the *[Commission][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**. 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 [*Commission*][*Agency*] will **recover** the amount:

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

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

(b) by **drawing on the Guarantee Fund.** The *[Agency or the]* Commission will formally notify the coordinator the debit note on behalf of the Guarantee Fund and recover the amount:

(i) ***[OPTION 1 if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]:*** *if a linked third party to the coordinator has accepted joint and several liability (see Article 14), by* ***holding the third party liable*** *up to the maximum EU contribution indicated for the consortium in the estimated budget (see Annex 2) and/or]* ***[OPTION 2:*** *not applicable;]*

(ii) by **taking legal action** (see Article 57) or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[, Article 106a of the Euratom Treaty]* 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 21.11, 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 coordinator, unless Directive 2007/64/EC applies.

1. Recovery of undue amounts

The rules on recovery of undue amounts are in principle the same as in the General MGA *(see Article 44 H2020 General MGA)*.

The lump sum multi-beneficiary MGA has, however, the **following specificities**:

Since the coordinator alone is financially responsible (for the entire grant) the Commission/Agency will recover ONLY from it.

> **Best practice:** Beneficiaries should foresee internal arrangements *(e.g. in the consortium agreement)* to redistribute the financial responsibility internally in the consortium in a fair way.

There is therefore also NO need for a report on the distribution of payments between beneficiaries.

Specific cases:

Coordinator with linked third party with joint and several liability — If a linked third party to the coordinator has accepted joint and several liability (see *Article 14 H2020 General MGA*), the Commission/Agency may also recover the amount unduly paid by holding the third party liable — up to the maximum EU contribution indicated for the consortium in the estimated budget (Annex 2).

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

49.1 Suspension of the action implementation, by the beneficiaries

49.1.1 Conditions

The beneficiaries may suspend implementation of the action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 51) — make implementation impossible or excessively difficult.

49.1.2 Procedure

The coordinator must immediately formally notify to the *[Commission][Agency]* the suspension (see Article 52), stating:

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

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

Once circumstances allow for implementation to resume, the coordinator must immediately formally notify the *[Commission][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 55) — unless the Agreement or the participation of a beneficiary has been terminated (see Article 50).

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.

49.2 Suspension of the action implementation, by the *[Commission][Agency]*

49.2.1 Conditions

The *[Commission][Agency]* may suspend implementation of the action or any part of it, if:

(a) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed or is suspected of having committed:

  (i) substantial errors, irregularities or fraud or

  (ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide requested information, breach of ethical principles);

(b) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) 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 22.5.2), or

(c) the action is suspected of having lost its scientific or technological relevance.

49.2.2 Procedure

Before suspending implementation of the action, the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned:

- 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 *[Commission][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 (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 or beneficiary concerned 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 55) — unless the Agreement has already been terminated (see Article 50).

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.

The beneficiaries may not claim damages due to suspension by the *[Commission][Agency]* (see Article 46).

Suspension of the action implementation does not affect the *[Commission's][Agency's]* right to terminate the Agreement or participation of a beneficiary (see Article 50), reduce the grant or recover amounts unduly paid (see Article 43 and Article 44).

1. GA suspension (beneficiaries or Commission/Agency)

The rules on GA suspension are in principle the same as for the General MGA (see *Article 49 H2020 General MGA)*.

The lump sum MGA has, however, the **following specificities**:

Suspension of action implementation has NO specific impact on the eligibility of costs. Costs are eligible, if they fulfil the conditions set out in Article 6 — i.e. the action tasks must have been carried out as described in Annex 1.

ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

MONO-BENEFICIARY: ARTICLE 50 — TERMINATION OF THE AGREEMENT

50.1 Termination of the Agreement, by the beneficiary

50.1.1 Conditions and procedure

The beneficiary may terminate the Agreement.

The beneficiary must formally notify termination to the *[Commission][Agency]* (see Article 52), 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 *[Commission][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

50.1.2 Effects

The beneficiary must submit — within 60 days from when termination takes effect — the final report (see Article 20).

If the *[Commission][Agency]* does not receive the report within the deadline (see above), no costs will be reimbursed.

The *[Commission][Agency]* will **calculate the final grant amount** (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

In case of **improper termination**, the grant will be reduced by 100% (see Article 43).

After termination, the beneficiary's obligations (in particular Section 3 of Chapter 4, Articles 36, 37, 40, 42, 43 and 44) continue to apply.

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

Not applicable

50.3 Termination of the Agreement by the *[Commission][Agency]*

50.3.1 Conditions

The *[Commission][Agency]* may terminate the Agreement if:

(a) not applicable

(b) a change to the beneficiary's legal, financial, technical, organisational or ownership situation *[(or those of its linked third parties)]* is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant;

(c) not applicable

(d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the beneficiary (see Article 49.1) 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) the 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) the 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) the beneficiary does not comply with the applicable national law on taxes and social security;

(h) the action has lost scientific or technological relevance;

(i) *[**OPTION 1 for joint actions (joint call with a third country or an international organisation):** the third country or international organisation action (see Article 2) has not started by the date specified in Annex 1][**OPTION 2:** not applicable]*;

(j) *[**OPTION 1 for joint actions (joint call with a third country or an international organisation):** the third country or international organisation action (see Article 2) is terminated or can no longer contribute to the action][**OPTION 2:** not applicable]*;

(k) the 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;

(l) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(m) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) 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 22.5.2).

(n) ***[OPTION 1**: despite a specific request by the [Commission][Agency], a beneficiary does not request— through the coordinator— an amendment to the Agreement to end the participation of one of its linked third parties or international partners that is in one of the situations under points (e), (f), (g), (k) and to reallocate its tasks][**OPTION 2**: not applicable].*

50.3.2 Procedure

Before terminating the Agreement, the *[Commission][Agency]* will formally notify the beneficiary:

- 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 (l.ii) above — to inform the *[Commission][Agency]* of the measures to ensure compliance with the obligations under the Agreement.

If the *[Commission][Agency]* does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify to the beneficiary 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), (h), (j), (l.ii) and (n)above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (i), (k), (l.i) and (m) above: on the day after the notification of the confirmation is received by the beneficiary.

50.3.3 Effects

The beneficiary must — within 60 days from when termination takes effect —, submit the final report (see Article 20).

If the Agreement is terminated for breach of the obligation to submit reports (see Articles 20.8 and 50.3.1(l)), the beneficiary may not submit any reports after termination.

If the *[Commission][Agency]* does not receive the report within the deadline (see above), no costs will be reimbursed

The *[Commission][Agency]* will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

This does not affect the *[Commission][Agency]*'s right to reduce the grant (see Article 43) or to impose administrative and sanctions (Article 53).

The beneficiary may not claim damages due to termination by the [Commission][Agency] (see Article 46).

After termination, the beneficiary's obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

MULTI-BENEFICIARY: ARTICLE 50 — TERMINATION OF THE AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE BENEFICIARIES

50.1 Termination of the Agreement, by the beneficiaries

50.1.1 Conditions and procedure

The beneficiaries may terminate the Agreement.

The coordinator must formally notify termination to the *[Commission][Agency]* (see Article 52), 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 *[Commission][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.

50.1.2 Effects

The coordinator must submit — within 60 days from when termination takes effect — the final report (see Article 20).

If the *[Commission][Agency]* does not receive the report within the deadline (see above), no costs will be reimbursed.

The *[Commission][Agency]* will **calculate the final grant amount** (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

In case of **improper termination**, the grant will be reduced by 100% (see Article 43).

After termination, the beneficiaries' obligations (in particular Section 3 of Chapter 4, Articles 36, 37, 40, 42, 43 and 44) continue to apply.

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

50.2.1 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 *[Commission][Agency]* (see Article 52) 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 55), with a proposal for reallocation of the tasks (see Annex 1) and, if necessary, the addition of one or more new beneficiaries (see Article 56). 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.
- a request for amendment (see Article 55), with a proposal for reallocation of the tasks (see Annex 1) and, if necessary, the addition of one or more new beneficiaries (see Article 56). 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 *[Commission][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.

50.2.2 Effects

If the request for amendment is rejected by the *[Commission][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 50.3.1(c).

If the request for amendment is accepted by the *[Commission][Agency]*, the Agreement is **amended** to introduce the necessary changes (see Article 55).

Improper termination may lead to a reduction of the grant (see Article 43) or termination of the Agreement (see Article 50).

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

50.3 Termination of the Agreement or of the participation of one or more beneficiaries, by the [Commission][Agency]

50.3.1 Conditions

The *[Commission][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 56);

(b) a change to their legal, financial, technical, organisational or ownership situation *[(or those of its linked third parties)]* 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 55);

(d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the coordinator (see Article 49.1) 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) the action has lost scientific or technological relevance;

(i) ***[OPTION 1 for joint actions (joint call with a third country or an international organisation)****: the third country or international organisation action (see Article 2) has not started by the date specified in Annex 1****][OPTION 2:*** *not applicable****]***;

(j) ***[OPTION 1 for joint actions (joint call with a third country or an international organisation)****: the third country or international organisation action (see Article 2) is terminated or can no longer contribute to the action****][OPTION 2:*** *not applicable****]***;

(k) 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;

(l) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed:

(i) substantial errors, irregularities or fraud or

(ii) serious breach of obligations under the Agreement or during the award procedure (including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles);

(m) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) 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 22.5.2);

(n) ***[OPTION 1****: despite a specific request by the [Commission][Agency], a beneficiary does not request— through the coordinator— an amendment to the Agreement to end the participation of one of its linked third parties or international partners that is in one of the situations under points (e), (f), (g), (k) and to reallocate its tasks][****OPTION 2****: not applicable].*

50.3.2 Procedure

Before terminating the Agreement or participation of one or more beneficiaries, the *[Commission][Agency]* will formally notify the coordinator or beneficiary concerned:

- 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 (l.ii) above — to inform the *[Commission][Agency]* of the measures to ensure compliance with the obligations under the Agreement.

If the *[Commission][Agency]* does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify to the coordinator or to beneficiary concerned **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), (h), (j), (l.ii) and (n) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (i), (k), (l.i) and (m) above: on the day after the notification of the confirmation is received.

50.3.3 Effects

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

The coordinator must — within 60 days from when termination takes effect —, submit the final report (see Article 20).

If the Agreement is terminated for breach of the obligation to submit reports (see Articles 20.8 and 50.3.1(l)), the coordinator may not submit any reports after termination.

If the Agency does not receive the report within the deadline (see above), no costs will be reimbursed.

The Agency will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

If the *[Commission][Agency]* does not receive the report within the deadline (see above), no costs will be reimbursed.

The *[Commission][Agency]* will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

This does not affect the *[Commission][Agency]*'s right to reduce the grant (see Article 43) or to impose administrative and sanctions (Article 53).

The beneficiaries may not claim damages due to termination by the *[Commission][Agency]* (see Article 46).

After termination, the beneficiaries' obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) 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 a request for amendment (see Article 55), with a proposal for reallocation of the tasks (see Annex 1) and, if necessary, the addition of one or more new beneficiaries (see Article 56). 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.

If the request for amendment is rejected by the [Commission][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 50.3.1(c).

If the request for amendment is accepted by the *[Commission][Agency]*, the Agreement is **amended** to introduce the necessary changes (see Article 56).

After termination, the concerned beneficiary's obligations (in particular Articles 20, 22, 23, Section 3 of Chapter 4, 36, 37, 38, 40, 42, 43 and 44) continue to apply.

1. GA termination (beneficiaries)

The rules on GA termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, for actions under lump sum actions, improper termination by the beneficiaries will lead to a **100% reduction** of the grant.

2. Partner termination (beneficiaries)

The rules on partner termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, the lump sum multi-beneficiary MGA has the **following specificities**:

The notification must include a reallocation of the tasks (Annex 1), but NO reallocation of the estimated budget of the beneficiary concerned.

Moreover, if the GA continues (i.e. it is amended), the termination of the beneficiary will NOT have any effect on the estimated budget (since there is a lump sum for the entire action, i.e. the consortium as a whole).

3. GA or beneficiary termination (Commission/Agency)

The rules on GA and beneficiary termination are in principle the same as in the General MGA *(see Article 50 H2020 General MGA)*.

However, the multi-beneficiary MGA Lump sum has the **following specificities**:

The request for amendment (which the coordinator must send 60 after termination) must include a reallocation of the tasks (Annex 1), but NO reallocation of the estimated budget of the beneficiary concerned.

If the GA continues (i.e. it is amended), the termination of the beneficiary will NOT have any effect on the estimated budget (since there is a lump sum for the entire action, i.e. the consortium as a whole).