

**PART II**  
**GENERAL CONDITIONS**

**PART A – LEGAL AND ADMINISTRATIVE PROVISIONS**

**ARTICLE II.1 – GENERAL OBLIGATIONS AND ROLES OF THE BENEFICIARIES**

**II.1.1 General obligations and role of the beneficiaries**

The beneficiaries shall:

- (a) be jointly and severally responsible for carrying out the Project in accordance with the terms and conditions of the Agreement;
- (b) be responsible for complying with any legal obligations incumbent on them jointly or individually;
- (c) make appropriate internal arrangements for the proper implementation of the Project, consistent with the provisions of this Agreement; where provided for in the Special Conditions, those arrangements shall take the form of an internal co-operation agreement between the beneficiaries.

**II.1.2 General obligations and role of each beneficiary**

Each beneficiary shall:

- (a) inform the coordinator immediately of any change likely to affect or delay the implementation of the Project of which the beneficiary is aware;
- (b) inform the coordinator immediately of any change in its legal, financial, technical, organisational or ownership situation and of any change in its name, address or legal representative;
- (c) submit in due time to the coordinator:
  - (i) the data needed to draw up the reports, financial statements and other documents provided for in the Agreement;
  - (ii) all the necessary documents in the event of audits, checks, evaluation and monitoring in accordance with Articles II.20 and II.21.
  - (iii) any other information to be provided to the NA according to the Agreement, except where the Agreement requires that such information is submitted directly by the beneficiary to the NA.

**II.1.3 General obligations and role of the coordinator**

The coordinator shall:

- (a) monitor that the Project is implemented in accordance with the Agreement;
- (b) be the intermediary for all communications between the beneficiaries and the NA, except where provided otherwise in the Agreement, and, in particular, the coordinator shall:
  - (i) immediately provide the NA with the information related to any change in the name, address, legal representative as well as in the legal, financial, technical, organisational or ownership situation of any of the beneficiaries, or to any event likely to affect or delay the implementation of the Project, of which the coordinator is aware;
  - (ii) bear responsibility for supplying all documents and information to the NA which may be required under the Agreement, except where provided otherwise in the Agreement; where information is required from the other beneficiaries, the coordinator shall bear responsibility for obtaining and verifying this information before passing it on to the NA;
- (c) make the appropriate arrangements for providing any financial guarantees required under the Agreement;
- (d) establish the requests for payment in accordance with the Agreement;
- (e) where it is designated as the sole recipient of payments on behalf of all of the beneficiaries, ensure that all the appropriate payments are made to the other beneficiaries without unjustified delay. The coordinator shall make all payments to the other beneficiaries by bank transfer and keep appropriate evidence of the amounts transferred to each beneficiary for any checks and audits as referred to in Article II.20.
- (f) bear responsibility for providing all the necessary documents in the event of checks and audits initiated before the payment of the balance, and in the event of evaluation in accordance with Articles II.20 and II.21.

The coordinator shall not subcontract any part of its tasks to the other beneficiaries or to any other party.

## **ARTICLE II.2 – COMMUNICATIONS BETWEEN THE PARTIES**

### **II.2.1 Form and means of communications**

Any communication relating to the Agreement or to its implementation shall be made in writing (in paper or electronic form), shall bear the number of the Agreement and shall be made using the communication details identified in Article I.6.

Electronic communications shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted

without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

Formal notifications shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

## **II.2.2 Date of communications**

Any communication is deemed to have been made when it is received by the receiving party, unless the agreement refers to the date when the communication was sent.

Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in Article I.6. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in Article I.6. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.

Mail sent to the NA using the postal services is considered to have been received by the NA on the date on which it is registered by the department identified in Article I.6.2.

Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

## **ARTICLE II.3 – LIABILITY FOR DAMAGES**

**II.3.1** The NA and the Commission shall not be held liable for any damage caused or sustained by any of the beneficiaries, including any damage caused to third parties as a consequence of or during the implementation of the Project.

**II.3.2** Except in cases of force majeure, the beneficiaries shall compensate the NA for any damage sustained by them as a result of the implementation of the Project or because the Project was not implemented or implemented poorly, partially or late.

## **ARTICLE II.4 - CONFLICT OF INTERESTS**

**II.4.1** The beneficiaries shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Agreement is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest (“conflict of interests”).

**II.4.2** Any situation constituting or likely to lead to a conflict of interests during the implementation of the Agreement shall be notified to the NA, in writing, without delay. The beneficiaries shall immediately take all the necessary steps to rectify this

situation. The NA reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.

## **ARTICLE II.5 – CONFIDENTIALITY**

**II.5.1** The NA and the beneficiaries shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the implementation of the Agreement and which are explicitly indicated in writing as confidential.

**II.5.2** The beneficiaries shall not use confidential information and documents for any reason other than fulfilling their obligations under the Agreement, unless otherwise agreed with the NA in writing.

**II.5.3** The NA and the beneficiaries shall be bound by the obligations referred to in Articles II.5.1 and II.5.2 during the implementation of the Agreement and for a period of five years starting from the payment of the balance, unless:

- (a) the party concerned agrees to release the other party from the confidentiality obligations earlier;
- (b) the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the party bound by that obligation;
- (c) the disclosure of the confidential information is required by law.

## **ARTICLE II.6 – PROCESSING OF PERSONAL DATA**

### **II.6.1 Processing of personal data by the NA and the Commission**

Any personal data included in the Agreement shall be processed by the NA according to the provisions laid down in national law.

Such data shall be processed by the data controller identified in Article I.6.1 solely for the purposes of the implementation, management and monitoring of the Agreement, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of national law applicable to the Agreement.

The beneficiaries shall have the right of access to his/her personal data and the right to rectify any such data. Should the beneficiaries have any queries concerning the processing of his/her personal data, he/she shall address them to the data controller, identified in Article I.6.1.

Any personal data included in the Agreement shall be processed by the Commission pursuant to 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.

The beneficiaries shall have the right of recourse at any time to the European Data Protection Supervisor.

## **II.6.2 Processing of personal data by the beneficiaries**

Where the Agreement requires the processing of personal data by the beneficiaries, the beneficiaries may act only under the supervision of the data controller identified in Article I.6.1, in particular with regard to the purpose of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his or her rights.

The access to data that the beneficiaries grant to their personnel shall be limited to the extent strictly necessary for the implementation, management and monitoring of the Agreement.

The beneficiaries undertake to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned, in order to:

- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
  - (i) unauthorised reading, copying, alteration or removal of storage media;
  - (ii) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
  - (iii) unauthorised persons from using data-processing systems by means of data transmission facilities;
- (b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- (c) record which personal data have been communicated, when and to whom;
- (d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the NA;
- (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- (f) design their organisational structure in such a way that it meets data protection requirements.

## **ARTICLE II.7 – VISIBILITY OF UNION FUNDING**

### **II.7.1 Information on Union funding and use of European Union emblem**

Any communication or publication related to the Project, made by the beneficiaries jointly or individually, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, etc.), shall indicate that the Project has received funding from the Union and shall display the European Union emblem.

[http://ec.europa.eu/dgs/education\\_culture/publ/graphics/identity\\_en.htm](http://ec.europa.eu/dgs/education_culture/publ/graphics/identity_en.htm) and [http://ec.europa.eu/dgs/communication/services/visual\\_identity/pdf/use-emblem\\_en.pdf](http://ec.europa.eu/dgs/communication/services/visual_identity/pdf/use-emblem_en.pdf).

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

### **II.7.2 Disclaimers excluding NA and Commission responsibility**

Any communication or publication related to the Project made by the beneficiaries jointly or individually in any form and using any means, shall indicate that it reflects only the author's view and that the NA and the Commission are not responsible for any use that may be made of the information it contains.

## **ARTICLE II.8 – PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)**

### **II.8.1 Ownership of the results by the beneficiaries**

Unless stipulated otherwise in the Agreement, ownership of the results of the Project, including industrial and intellectual property rights, and of the reports and other documents relating to it, shall be vested in the beneficiaries.

### **II.8.2 Pre-existing industrial and intellectual property rights**

Where industrial and intellectual property rights, including rights of third parties, exist prior to the conclusion of the Agreement, the beneficiaries shall establish a list which shall specify all rights of ownership and use of the pre-existing industrial and intellectual property rights and disclose it to the NA at the latest before the commencement of implementation.

The beneficiaries shall ensure that they have all the rights to use any pre-existing industrial and intellectual property rights during the implementation of the Agreement.

### **II.8.3 Rights of use of the results and of pre-existing rights by NA and the Union**

Without prejudice to Articles II.1.1, II.3 and II.8.1, the beneficiaries grant the Union the right to use the results of the Project for the following purposes:

- (a) use for its own purposes, and in particular, making available to persons working for the NA, Union institutions, agencies and bodies and to Member States' institutions, as well as, copying and reproducing in whole or in part and in unlimited number of copies;

- (b) distribution to the public, and in particular, publication in hard copies and in electronic or digital format, publication on the internet, including on the Europa website, as a downloadable or non-downloadable file, broadcasting by any kind of technique of transmission, public display or presentation, communication through press information services, inclusion in widely accessible databases or indexes;
- (c) translation;
- (d) giving access upon individual requests without the right to reproduce or exploit, as provided for by 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;
- (e) storage in paper, electronic or other format;
- (f) archiving in line with the document management rules applicable to the NA;
- (g) rights to authorise or sub-licence the modes of exploitation set out in points (b) and (c) to third parties.

Additional rights of use for the NA and/or the Union may be provided for in the Special Conditions.

The beneficiaries shall warrant that the NA and/or the Union has the right to use any pre-existing industrial and intellectual property rights, which have been included in the results of the Project. Unless specified otherwise in the Special Conditions, those pre-existing rights shall be used for the same purposes and under the same conditions applicable to the rights of use of the results of the Project.

Information about the copyright owner shall be inserted when the result is divulged by the NA and/or the Union. The copyright information shall read: "© – year – name of the copyright owner. All rights reserved. Licenced to –name of the National agency-under conditions" or "© – year – name of the copyright owner. All rights reserved. Licenced to the European Union under conditions."

## **ARTICLE II.9 – AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE PROJECT**

**II.9.1** Where the implementation of the Project requires the procurement of goods, works or services, the beneficiaries shall award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, they shall avoid any conflict of interests.

Beneficiaries acting in their capacity of contracting authorities within the meaning of 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 or contracting entities within the

meaning of 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 shall abide by the applicable national public procurement rules.

- II.9.2** The beneficiaries shall retain sole responsibility for carrying out the Project and for compliance with the provisions of the Agreement. The beneficiaries shall ensure that any procurement contract contains provisions stipulating that the contractor has no rights vis-à-vis the NA under the Agreement.
- II.9.3.** The beneficiaries shall ensure that the conditions applicable to them under Articles II.3, II.4, II.5, II.8, II.20 and II.21. are also applicable to the contractor.

## **ARTICLE II.10 – SUBCONTRACTING OF TASKS FORMING PART OF THE PROJECT**

- II.10.1** A "subcontract" is a procurement contract within the meaning of Article II.9, which covers the implementation by a third party of tasks forming part of the Project as described in Annex I.
- II.10.2** Beneficiaries may subcontract tasks forming part of the Project, provided that, in addition to the conditions specified in Article II.9 and the Special Conditions, the following conditions are complied with:
- (a) subcontracting only covers the implementation of a limited part of the Project;
  - (b) recourse to subcontracting is justified having regard to the nature of the Project and what is necessary for its implementation;
  - (c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex II;
  - (d) any recourse to subcontracting, if not provided for in Annex I, is communicated by the coordinator and approved by the NA without prejudice to Article II.11.2;
  - (e) the beneficiaries ensure that the conditions applicable to them under Article II.7 are also applicable to the subcontractor.

## **ARTICLE II.11 – AMENDMENTS TO THE AGREEMENT**

- II.11.1** Any amendment to the Agreement shall be made in writing.
- II.11.2** An amendment may not have the purpose or the effect of making changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants.
- II.11.3** Any request for amendment shall be duly justified and shall be sent to the other party in due time before it is due to take effect, and in any case one month before the

end of the period set out in Article I.2.2, except in cases duly substantiated by the party requesting the amendment and accepted by the other party.

**II.11.4** A request for amendment on behalf of the beneficiaries shall be submitted by the coordinator. If a change of coordinator is requested without its agreement, the request shall be submitted by all other beneficiaries.

**II.11.5** Amendments shall enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

Amendments shall take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

## **ARTICLE II.12 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES**

**II.12.1** Claims for payments of the beneficiaries against the NA may not be assigned to third parties, except in duly justified cases where the situation warrants it.

The assignment shall only be enforceable against the NA if it has accepted the assignment on the basis of a written and reasoned request to that effect made by the coordinator on behalf of the beneficiaries. In the absence of such an acceptance, or in the event of failure to observe the terms thereof, the assignment shall have no effect on the NA.

**II.12.2** In no circumstances shall such an assignment release the beneficiaries from their obligations towards the NA.

## **ARTICLE II.13 – FORCE MAJEURE**

**II.13.1** "*Force majeure*" shall mean any unforeseeable exceptional situation or event beyond the parties' control, which prevents either of them from fulfilling any of their obligations under the Agreement, which was not attributable to error or negligence on their part or on the part of subcontractors, affiliated entities or third parties involved in the implementation and which proves to be inevitable in spite of exercising all due diligence. 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, as well as labour disputes, strikes or financial difficulties cannot be invoked as *force majeure*.

**II.13.2** A party faced with *force majeure* shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

**II.13.3** The parties shall take the necessary measures to limit any damage due to *force majeure*. They shall do their best to resume the implementation of the Project as soon as possible.

**II.13.4** The party faced with *force majeure* shall not be held to be in breach of its obligations under the Agreement if it has been prevented from fulfilling them by *force majeure*.

## **ARTICLE II.14 – SUSPENSION OF THE IMPLEMENTATION OF THE PROJECT**

### **II.14.1 Suspension of the implementation by the beneficiaries**

The coordinator, on behalf of the beneficiaries, may suspend the implementation of the Project or any part thereof, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*. The coordinator shall inform the NA without delay, giving all the necessary reasons and details and the foreseeable date of resumption.

Unless the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.15.1, II.15.2 or points (c) or (d) of Article II.15.3.1, the coordinator shall, once the circumstances allow resuming the implementation of the Project, inform the NA immediately and present a request for amendment of the Agreement as provided for in Article II.14.3.

### **II.14.2 Suspension of the implementation by the NA**

**II.14.2.1** The NA may suspend the implementation of the Project or any part thereof:

- (a) if the NA has evidence that a beneficiary has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Agreement or if a beneficiary fails to comply with its obligations under the Agreement;
- (b) if the NA suspects substantial errors, irregularities, fraud or breach of obligations committed by a beneficiary in the award procedure or in the implementation of the Agreement and needs to verify whether they have actually occurred.

**II.14.2.2** Before suspending the implementation the NA shall formally notify the coordinator of its intention to suspend, specifying the reasons thereof, and, in the cases referred to in points (a) of Article II.14.2.1, the necessary conditions for resuming the implementation. The coordinator shall be invited to submit observations on behalf of all beneficiaries within 30 calendar days from receipt of this notification.

If, after examination of the observations submitted by the coordinator, the NA decides to stop the suspension procedure, it shall formally notify the coordinator thereof.

If no observations have been submitted or if, despite the observations submitted by the coordinator, the NA decides to pursue the suspension procedure, it may suspend the implementation by formally notifying the coordinator thereof,

specifying the reasons for the suspension and, in the cases referred to in points (a) of Article II.14.2.1, the definitive conditions for resuming the implementation or, in the case referred to in point (b) of Article II.14.2.1, the indicative date of completion of the necessary verification.

The coordinator shall inform the other beneficiaries immediately. The suspension shall take effect five calendar days after the receipt of the notification by the coordinator or on a later date, where the notification so provides.

In order to resume the implementation, the beneficiaries shall endeavour to meet the notified conditions as soon as possible and shall inform the NA of any progress made in this respect.

Unless the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.15.1, II.15.2 or points (c) or (i) of Article II.15.3.1, the NA shall, as soon as it considers that the conditions for resuming the implementation have been met or the necessary verification, including on-the-spot checks, has been carried out, formally notify the coordinator thereof and invite the coordinator to present a request for amendment of the Agreement as provided for in Article II.14.3.

### **II.14.3 Effects of the suspension**

If the implementation of the Project can be resumed and the Agreement is not terminated, an amendment to the Agreement shall be made in accordance with Article II.11 in order to establish the date on which the Project shall be resumed, to extend the duration of the Project and to make any other modifications that may be necessary to adapt the Project to the new implementing conditions.

The suspension is deemed lifted as from the date of resumption of the Project agreed by the parties in accordance with the first subparagraph. Such a date may be before the date on which the amendment enters into force.

Any costs incurred by the beneficiaries, during the period of suspension, for the implementation of the suspended Project or the suspended part thereof, shall not be reimbursed or covered by the grant.

The right of the NA to suspend the implementation is without prejudice to its right to terminate the Agreement or the participation of a beneficiary in accordance with Article II.15.3 and its right to reduce the grant or recover amounts unduly paid in accordance with Articles II.18.4 and II.19.

Neither party shall be entitled to claim compensation on account of a suspension by the other party.

## **ARTICLE II.15 – TERMINATION OF THE AGREEMENT**

### **II.15.1 Termination of the Agreement by the coordinator**

In duly justified cases, the coordinator, on behalf of all beneficiaries, may terminate the Agreement by formally notifying the NA thereof, stating clearly the reasons and specifying the date on which the termination shall take effect. The notification shall be sent before the termination is due to take effect.

If no reasons are given or if the NA considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinator, specifying the grounds thereof, and the Agreement shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.15.4.

### **II.15.2 Termination of the participation of one or more beneficiaries by the coordinator**

In duly justified cases, the participation of any one or several beneficiaries in the Agreement may be terminated by the coordinator, acting on request of that beneficiary or those beneficiaries, or on behalf of all the other beneficiaries. When notifying such termination to the NA, the coordinator shall include the reasons for the termination of the participation, the opinion of the beneficiary or beneficiaries the participation of which is terminated, the date on which the termination shall take effect and the proposal of the remaining beneficiaries relating to the reallocation of the tasks of that beneficiary or those beneficiaries or, where relevant, to the nomination of one or more replacements which shall succeed that beneficiary or those beneficiaries in all their rights and obligations under the Agreement. The notification shall be sent before the termination is due to take effect.

If no reasons are given or if the NA considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinator, specifying the grounds thereof, and the participation shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.15.4.

Without prejudice to Article II.11.2, an amendment to the Agreement shall be made, in order to introduce the necessary modifications.

### **II.15.3 Termination of the Agreement or the participation of one or more beneficiaries by the NA**

**II.15.3.1** The NA may decide to terminate the Agreement or the participation of any one or several beneficiaries participating in the Project, in the following circumstances:

- (a) if a change to the beneficiary's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Agreement substantially or calls into question the decision to award the grant;
- (b) if, following the termination of the participation of any one or several beneficiaries, the necessary modifications to the Agreement would call into

question the decision awarding the grant or would result in unequal treatment of applicants;

- (c) if the beneficiaries do not implement the Project as specified in Annex I or if a beneficiary fails to comply with another substantial obligation incumbent on it under the terms of the Agreement;
- (d) in the event of *force majeure*, notified in accordance with Article II.13, or in the event of suspension by the coordinator as a result of exceptional circumstances, notified in accordance with Article II.14, where resuming the implementation is impossible or where the necessary modifications to the Agreement would call into question the decision awarding the grant or would result in unequal treatment of applicants;
- (e) if a beneficiary is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of any other similar proceedings concerning those matters, or is in an analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (f) if a beneficiary or any related person, as defined in the second subparagraph, have been found guilty of professional misconduct proven by any means;
- (g) if a beneficiary is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or in which the Project is implemented;
- (h) if the NA has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- (i) if the NA has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Agreement, including in the event of submission of false information or failure to submit required information in order to obtain the grant provided for in the Agreement; or

For the purposes of points (f), (h) and (i), "any related person" shall mean any natural person who has the power to represent the beneficiary or to take decisions on its behalf.

**II.15.3.2** Before terminating the Agreement or the participation of any one or several beneficiaries, the NA shall formally notify the coordinator of its intention to terminate, specifying the reasons thereof and inviting the coordinator, within 45 calendar days from receipt of the notification, to submit observations on behalf of

all beneficiaries and, in the case of point (c) of Article II.15.3.1, to inform the NA about the measures taken to ensure that the beneficiaries continue to fulfil their obligations under the Agreement.

If, after examination of the observations submitted by the coordinator, the NA decides to stop the termination procedure, it shall formally notify the coordinator thereof.

If no observations have been submitted or if, despite the observations submitted by the coordinator, the NA decides to pursue the termination procedure, it may terminate the Agreement or the participation of any one or several beneficiaries by formally notifying the coordinator thereof, specifying the reasons for the termination.

In the cases referred to in points (a), (b), (c), (e) and (g) of Article II.15.3.1, the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h) and (i) of Article II.15.3.1, the termination shall take effect on the day following the date on which the formal notification was received by the coordinator.

#### **II.15.4 Effects of termination**

Where the Agreement is terminated, payments by the NA shall be limited to the amount determined in accordance with Article II.18 on the basis of the eligible costs incurred by the beneficiaries and the actual level of implementation of the Project on the date when the termination takes effect. Costs relating to current commitments, which are not due for execution until after the termination, shall not be taken into account. The coordinator shall have 60 calendar days from the date when the termination of the Agreement takes effect, as provided for in Articles II.15.1 and II.15.3.2, to produce a request for payment of the balance in accordance with Article I.4.3 . If no request for payment of the balance is received within this time limit, the NA shall not reimburse or cover any costs which are not included or which are not justified in the interim or final reports approved by it. In accordance with Article II.19, the NA shall recover any amount already paid, if its use is not substantiated by interim or final reports.

Where the participation of a beneficiary is terminated, the beneficiary concerned shall submit to the coordinator a report on the implementation of the Project and, where applicable, a financial statement covering the period from the end of the last reporting period according to Article I.4 for which a report has been submitted to the NA to the date on which the termination takes effect. The documents shall be submitted in due time to allow the coordinator to draw up the corresponding payment request. Only those costs incurred by the beneficiary concerned up to the date when termination of its participation takes effect shall be reimbursed or covered by the grant. Costs relating to current commitments, which were not due for execution until after the termination, shall not be taken into account. The request for payment for the beneficiary concerned shall be included in the next payment request submitted by the coordinator in accordance with the schedule laid down in Article I.4.

Where the NA, in accordance with point (c) of Article II.15.3.1, is terminating the Agreement on the grounds that the coordinator has failed to produce the request for payment and, after a

reminder, has still not complied with this obligation within the deadline set out in Article I.4.5, the first subparagraph shall apply, subject to the following:

- (a) there shall be no additional time period from the date when the termination of the Agreement takes effect for the coordinator to produce a request for payment of the balance in accordance with Article I.4.3; and
- (b) the NA shall not reimburse or cover any costs incurred by the beneficiaries up to the date of termination or up to the end of the period set out in Article I.2.2, whichever is the earlier, which are not included or which are not justified in the interim or final reports.

In addition to the first, second and third subparagraphs, where the Agreement or the participation of a beneficiary is terminated improperly by the coordinator within the meaning of Articles II.15.1 and II.15.2, or where the Agreement or the participation of a beneficiary is terminated by the NA on the grounds set out in points (c), (f), (h) and (i) of Article II.15.3.1, the NA may also reduce the grant or recover amounts unduly paid in accordance with Articles II.18.4 and II.19 in proportion to the gravity of the failings in question and after allowing the coordinator, and, where relevant, the beneficiaries concerned, to submit their observations.

Neither party shall be entitled to claim compensation on account of a termination by the other party

## **PART B – FINANCIAL PROVISIONS**

### **ARTICLE II.16 – ELIGIBLE COSTS**

#### **II.16.1 Conditions for unit contributions**

Where the grant takes the form of a unit contribution, the number of units must comply with the following conditions:

- (a) the units must be actually used or produced in the period set out in Article I.2.2.;
- (b) the units must be necessary for implementing the Project or produced by it;
- (c) the number of units must be identifiable and verifiable, in particular supported by records and documentation specified in Article II.16.2

#### **II.16.2 Calculation of unit contributions**

##### **II.16.2.1 Key Action 2 – Strategic Partnerships**

###### **A. Project management and implementation**

- (a) Calculation of the grant amount: the grant amount is calculated by multiplying the total number of months of the project duration by the unit contribution applicable to the beneficiary, as specified in Annex III of the Agreement.
- (b) Triggering event: the event that conditions the entitlement to the grant is that the beneficiary implements the activities and produces the outputs to be covered from this budget category as applied for in the grant application and as approved by the National Agency.
- (c) Supporting documents: proof of activities undertaken and outputs produced will be provided in the form of a description of these activities and outputs in the final report. In addition, outputs produced will be uploaded by the coordinator in the Dissemination Platform and, depending on their nature, available for checks and audits at the premises of the beneficiaries.

###### **B. Transnational project meetings**

- (a) Calculation of the grant amount: the grant amount is calculated by multiplying the total number of participations with the unit contribution applicable, as specified in Annex III of the Agreement.
- (b) Triggering event: the event that conditions the entitlement to the grant is that the participant has actually participated in the transnational project meeting and undertaken the reported travel.
- (c) Supporting documents:
  - For travel taking place between the sending organisation and the receiving organisation: proof of attendance of the activity abroad in the form of a declaration

signed by the receiving organisation specifying the name of the participant, the purpose of the activity abroad, as well as its starting and end date;

- In case of travel from a place different than that where the sending organisation is located and/or travel to a place different than that where the receiving organisation is located, the actual travel itinerary shall be supported with travel tickets or other invoices specifying the place of departure and the place of arrival.

#### C. Intellectual outputs

(a) Calculation of the grant amount: the grant amount is calculated by multiplying the number of days of work performed by the staff of the beneficiaries by the unit contribution applicable per day for the category of staff for the country in which the beneficiary concerned is established, as specified in Annex III of the Agreement.

(b) Triggering event: the event that conditions the entitlement to the grant is that the intellectual output has been produced and that it is of an acceptable quality level, as determined by the evaluation of the NA.

(c) Supporting documents:

- proof of the intellectual output produced, which will be uploaded in the Dissemination Platform and/or, depending on its nature, available for checks and audits at the premises of the beneficiaries;
- proof of the staff time invested in the production of the intellectual output in the form of a time sheet per person, identifying the name of the person, the category of staff in terms of the 4 categories specified in Annex III, the dates and the total number of days of work of the person for the production of the intellectual output;
- proof of the nature of the relationship between the person and the beneficiary concerned (such as type of employment contract, voluntary work, etc.), as registered in the official records of the beneficiary.

#### D. Multiplier events

(a) Calculation of the grant amount: the grant amount is calculated by multiplying the number of participants from organisations other than the beneficiary and other project partner organisations as specified in the Agreement by the unit contribution applicable per participant, as specified in Annex III of the Agreement.

(b) Triggering event: the event that conditions the entitlement to the grant is that the multiplier event has taken place and that it is of an acceptable quality level, as determined by the evaluation of the NA.

(c) Supporting documents:

- Description of the multiplier event in the final report;
- proof of attendance of the multiplier event in the form of a participants list signed by the participants specifying the name, date and place of the multiplier event, and for

each participant: name, e-mail address and signature of the person, name and address of the sending organisation of the person;

- detailed agenda and any documents used or distributed at the multiplier event.

E. Learning, teaching and training activities

(a) Calculation of the grant amount: the grant amount takes the form of a unit contribution towards the travel, individual support and linguistic support. It is calculated as follows:

- Travel: the grant amount is calculated by multiplying the number of participants with the unit contribution applicable to the distance band for the travel abroad, as specified in Annex III of the Agreement;
- Individual support: the grant amount is calculated by multiplying the number of days/months per participant with the unit contribution applicable per day/month for the type of participant and for the host country concerned, as specified in Annex III of the Agreement. In the case of incomplete months for activities exceeding 2 months, the grant amount is calculated by multiplying the number of days of the incomplete month with 1/30 of the unit contribution per month.
- Linguistic support: the grant amount is calculated by multiplying the total number of participants receiving linguistic support with the unit contribution applicable, as specified in Annex III of the Agreement.

(b) Triggering event:

- Travel: the triggering event for the entitlement to the grant is that the participant has actually undertaken the reported travel.
- Individual support: the event that conditions the entitlement to the grant is that the participant has actually undertaken the activity abroad.
- Linguistic support: the triggering event for the entitlement to the grant is that the participant has undertaken an activity abroad exceeding 2 months and that the person has actually undertaken language preparation in the language of instruction or work abroad.

(c) Supporting documents:

(i) Travel:

- For travel taking place between the sending organisation and the receiving organisation: proof of attendance of the activity abroad in the form of a declaration signed by the receiving organisation specifying the name of the participant, the purpose of the activity abroad, as well as its starting and end date;
- In case of travel from a place different than that where the sending organisation is located and/or travel to a place different than that where the receiving organisation is located, the actual travel itinerary shall be supported with travel tickets or other invoices specifying the place of departure and the place of arrival.

(ii) Individual support

- Proof of attendance of the activity abroad in the form of a declaration signed by the receiving organisation specifying the name of the participant, the purpose of the activity abroad, as well as its start and end date;

(iii) Supporting documents:

- Proof of attendance of courses in the form of a declaration signed by the course provider, specifying the name of the participant, the language taught, the format and duration of the linguistic support provided, or
- Invoice for the purchase of learning materials, specifying the language concerned, the name and address of the body issuing the invoice, the amount and currency, and the date of the invoice, or
- In case the linguistic support is provided directly by the beneficiary: a declaration signed and dated by the participant, specifying the name of the participant, the language taught, the format and duration of the linguistic support received.

### **II.16.3. Conditions for the reimbursement of actual costs**

Where the grant takes the form of a reimbursement of actual costs, the following conditions shall apply:

- (a) they are incurred by the beneficiary;
- (b) they are incurred in the period set out in Article I.2.2.;
- (c) they are indicated in the estimated budget set out in Annex II or eligible following budget transfers in accordance with Article I.3.2;
- (d) they are incurred in connection with the Project as described in Annex I and are necessary for its implementation;
- (e) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and with the usual cost accounting practices of the beneficiary;
- (f) they comply with the requirements of applicable tax and social legislation;
- (g) they are reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency;
- (h) they are not covered by a unit contribution as specified in Article II.16.1.

### **II.16.4 Calculation of actual cost**

#### **II.16.4.1 Key Action 2 –Strategic Partnerships**

A. Special needs support

- (a) Calculation of the grant amount: the grant is a reimbursement of 100% of the eligible costs actually incurred.
- (b) Eligible costs: costs that are indispensable to allow persons with disabilities to participate in the Project and that are additional to costs supported by a unit contribution as specified in Article II.16.1.
- (c) Supporting documents: invoices of the actual costs incurred, specifying the name and address of the body issuing the invoice, the amount and currency, and the date of the invoice.

B. Exceptional costs

- (a) Calculation of the grant amount: the grant equals the reimbursement of a) 75% of the eligible costs actually incurred or b) € 50.000 excluding the costs of a financial guarantee if required by the Agreement, whichever of both ceilings is the lowest.

(b) Eligible costs:

- Sub-contracting: sub-contracting and purchase of goods and services in so far as applied for by the beneficiary as specified in Annex I and in so far as approved by the NA as specified in Annex II;
- Financial guarantee: costs relating to a pre-financing guarantee lodged by the beneficiary where such guarantee is required by the NA, as specified in Article I.4.1 of the Agreement.
- Cost related to the depreciation costs of equipment or other assets (new or second-hand) as recorded in the accounting statements of the beneficiary, provided that the asset has been purchased in accordance with Article II.9 and that it is written off in accordance with the international accounting standards and the usual accounting practices of the beneficiary. The costs of rental or lease of equipment or other assets are also eligible, provided that these costs do not exceed the depreciation costs of similar equipment or assets and are exclusive of any finance fee.

(c) Supporting documents:

- Sub-contracting: invoices of the actual costs incurred, specifying the name and address of the body issuing the invoice, the amount and currency, and the date of the invoice.
- Financial guarantee: proof of the cost the financial guarantee issued by the body providing the guarantee to the beneficiary, specifying the name and address of the body issuing the financial guarantee, the amount and currency of the cost of the guarantee, and providing the date and signature of the legal representative of the body issuing the guarantee.
- Depreciations costs: proof of the purchase, rental or lease of the equipment, as recorded in the beneficiary's accounting statements, justifying that these costs

correspond to the period set out in Article I.2.2 and the rate of actual use for the purposes of the Project may be taken into account.

#### **II.16.5 Ineligible costs**

In addition to any other costs which do not fulfill the conditions set out in Articles II.16.1 and II.16.3, the following costs shall not be considered eligible:

- (a) return on capital;
- (b) debt and debt service charges;
- (c) provisions for losses or debts;
- (d) interest owed;
- (e) doubtful debts;
- (f) exchange losses;
- (g) costs of opening and operating bank accounts (including costs of transfers from the NA charged by the bank of the beneficiary);
- (h) costs declared by the beneficiary in the framework of another Project receiving a grant financed from the Union budget (including grants awarded by a Member State and financed from the Union budget and grants awarded by other bodies than the Commission for the purpose of implementing the Union budget); in particular, indirect costs shall not be eligible under a grant for an Project awarded to the beneficiary when it already receives an operating grant financed from the Union budget during the period in question;
- (i) in the case of renting or leasing of equipment, the cost of any buy-out option at the end of the lease or rental period;
- (j) contributions in kind from third parties;
- (k) excessive or reckless expenditure;
- (l) VAT, when is considered as recoverable under the applicable national VAT legislation.

### **ARTICLE II.17 –FURTHER PAYMENT ARRANGEMENTS**

#### **II.17.1 Financial guarantee**

Where payment of pre-financing is conditional on receipt of a financial guarantee, the financial guarantee shall fulfill the following conditions:

- (a) it is provided by a bank or an approved financial institution or, at the request of the coordinator and acceptance by the NA, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require the NA to have recourse against the principal debtor (i.e. the beneficiary concerned); and
- (c) it provides that it remains in force until the pre-financing is cleared against payment of the balance by the NA and, in case the payment of the balance is made in accordance with Article II.19 three months after the beneficiary was notified in accordance with Article II.19.3. The NA shall release the guarantee within the following month.

### **II.17.2 Suspension of the time limit for payment**

The NA may suspend the time limit for payment specified in Articles I.4.2 and I.4.4 at any time by formally notifying the coordinator that its request for payment cannot be met, either because it does not comply with the provisions of the Agreement, or because the appropriate supporting documents have not been produced, or because there is doubt about the eligibility of the costs declared in the interim or final reports.

The coordinator shall be notified as soon as possible of any such suspension, together with the reasons thereof.

Suspension shall take effect on the date when notification is sent by the NA. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension exceeds two months, the coordinator may request a decision by the NA on whether the suspension is to be continued.

Where the time limit for payment has been suspended following the rejection of one of the interim reports provided for by Article I.4.2 or the final report provided for by Article I.4.3 and the new report submitted is also rejected, the NA reserves the right to terminate the Agreement in accordance with Article II.15.3.1(c), with the effects described in Article II.15.4.

### **II.17.3 Suspension of payments**

The NA may, at any time during the implementation of the Agreement, suspend the pre-financing payments, or payment of the balance for all beneficiaries:

- (a) if the NA has evidence that a beneficiary has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the grant, or if a beneficiary fails to comply with its obligations under the Agreement;
- (b) if the NA suspects substantial errors, irregularities, fraud or breach of obligations committed by a beneficiary in the award procedure or in the implementation of the Agreement and needs to verify whether they have actually occurred.

Before suspending payments, the NA shall formally notify the coordinator of its intention to suspend payments, specifying the reasons thereof and, in the cases referred to in point (a) of

the first subparagraph, the necessary conditions for resuming payments. The coordinator shall be invited to make any observations on behalf of all beneficiaries within 30 calendar days from receipt of this notification.

If, after examination of the observations submitted by the coordinator, the NA decides to stop the procedure of payment suspension, the NA shall formally notify the coordinator thereof.

If no observations have been submitted or if, despite the observations submitted by the coordinator, the NA decides to pursue the procedure of payment suspension, it may suspend payments by formally notifying the coordinator, specifying the reasons for the suspension and, in the cases referred to in point (a) of the first subparagraph, the definitive conditions for resuming payments or, in the case referred to in point (b) of the first subparagraph, the indicative date of completion of the necessary verification.

The coordinator shall inform the other beneficiaries immediately. The suspension of payments shall take effect on the date when the notification is sent by the NA.

In order to resume payments, the beneficiaries shall endeavour to meet the notified conditions as soon as possible and shall inform the NA of any progress made in this respect.

The NA shall, as soon as it considers that the conditions for resuming payments have been met or the necessary verification, including on-the-spot checks, has been carried out, formally notify the coordinator thereof.

During the period of suspension of payments and without prejudice to the right to suspend the implementation of the Project in accordance with Article II.14.1 or to terminate the Agreement or the participation of a beneficiary in accordance with Article II.15.1 and Article II.15.2, the coordinator is not entitled to submit any requests for payments referred to in Articles I.4.2 and I.4.3.

The corresponding requests for payments may be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments in accordance with the schedule laid down in Article I.4.1

#### **II.17.4 Notification of amounts due**

The NA shall formally notify the amounts due, specifying whether it is a further pre-financing payment or the payment of the balance. In the case of payment of the balance, it shall also specify the final amount of the grant determined in accordance with Article II.18.

#### **II.17.5 Interest on late payment**

On expiry of the time limits for payment specified in Articles I.4.2, I.4.3 and I.4.4 and II.17.1, and without prejudice to Articles II.17.2 and II.17.3, the beneficiary is entitled to interest on late payment. The interest payable shall not be considered for the purposes of determining the final amount of grant within the meaning of Article II.18.3.

The interest payable shall be determined according to the provisions laid down in the national law applicable to the Agreement or in the rules of the NA.

In the absence of such provisions the interest payable shall be determined according to the following rules:

- (a) The late payment interest rate is the rate applied by the European Central Bank for its main refinancing operations in euros ("the reference rate"), plus three and a half points. The reference rate shall be the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the *Official Journal of the European Union*.
- (b) The suspension of the time limit for payment in accordance with Article II.17.2 or of payment by the NA in accordance with Article II.17.3 may not be considered as late payment.
- (c) Interest on late payment shall cover the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article II.17.7
- (d) By exception, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the beneficiary only upon request submitted within two months of receiving late payment.

#### **II.17.6 Currency for requests for payments and payments**

All payments by the NA shall be made in euro.

Where the beneficiary keeps its general accounts in euro, it shall convert costs incurred in another currency into euro according to its usual accounting practices.

Where the beneficiary keeps its general accounts in a currency other than the euro, it shall convert costs incurred in another currency into euro at the average of the daily exchange rates published in the C series of *Official Journal of the European Union*, determined over the corresponding reporting period. Where no daily euro exchange rate is published in the *Official Journal of the European Union* for the currency in question, conversion shall be made at the average of the monthly accounting rates established by the Commission and published on its website ([http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)), determined over the corresponding reporting period.

#### **II.17.7 Date of payment**

Payments by the NA shall be deemed to be effected on the date when they are debited to the NA's account unless the national law provides otherwise.

#### **II.17.8 Costs of payment transfers**

Costs of the payment transfers shall be borne in the following way:

- (a) costs of transfer charged by the bank of the NA shall be borne by the NA;

- (b) costs of transfer charged by the bank of a beneficiary shall be borne by the beneficiary;
- (c) all costs of repeated transfers caused by one of the parties shall be borne by the party which caused the repetition of the transfer.

#### **II.17.9 Payments to the coordinator**

Payments to the coordinator shall discharge the NA from its payment obligation.

### **ARTICLE II.18 – DETERMINING THE FINAL AMOUNT OF THE GRANT**

#### **II.18.1 Calculation of the final amount**

Without prejudice to Articles II.18.2, II.18.3 and II.18.4, the final amount of the grant shall be determined as follows:

- (a) where, the grant takes the form of the reimbursement of eligible costs, the amount obtained by application of the reimbursement rate specified in that Article to the eligible costs of the Project approved by the NA for the corresponding categories of costs and beneficiaries;
- (b) where the grant takes the form of a unit contribution, the amount obtained by multiplying the unit contribution specified that Article by the actual number of units approved by the NA for the corresponding beneficiaries;

Where Annex II provides for a combination of different forms of grant, these amounts shall be added.

#### **II.18.2 Maximum amount**

The total amount paid to the beneficiaries by the NA may in no circumstances exceed the maximum amount specified in Article I.3.1.

Where the amount determined in accordance with Article II.18.1 exceeds this maximum amount, the final amount of the grant shall be limited to the maximum amount specified in Article I.3.1

#### **II.18.3 No-profit rule and taking into account of receipts**

**II.18.3.1** The grant may not produce a profit for the beneficiaries. "Profit" shall mean a surplus of the receipts over the eligible costs of the Project.

**II.18.3.2** The receipts to be taken into account are the consolidated receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the coordinator, which fall within one of the following two categories:

- (a) income generated by the Project; or

- (b) financial contributions specifically assigned by the donors to the financing of the eligible costs of the Project reimbursed by the NA in accordance with Article I.3.

**II.18.3.3** The following shall not be considered as receipts to be taken into account for the purpose of verifying whether the grant produces a profit for the beneficiaries:

- (a) financial contributions referred to in point (b) of Article II.18.3.2, which may be used by the beneficiaries to cover costs other than the eligible costs under the Agreement;
- (b) financial contributions referred to in point (b) of Article II.18.3.2, the unused part of which is not due to the donors at the end of the period set out in Article I.2.2.

**II.18.3.4** The eligible costs to be taken into account are the consolidated eligible costs approved by the NA for the categories of costs reimbursed in accordance with Article II.16.

**II.18.3.5** Where the final amount of the grant determined in accordance with Articles II.18.1 and II.18.2 would result in a profit for the beneficiaries, the profit shall be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the Project approved by the NA for the categories of costs referred to in Article II.16.3. This final rate shall be calculated on the basis of the final amount of the grant in the form referred to in Article I.3.1, as determined in accordance with Articles II.18.1 and II.18.2.

#### **II.18.4 Reduction for poor, partial or late implementation**

If the Project is not implemented or is implemented poorly, partially or late, the NA may reduce the grant initially provided for, in line with the actual implementation of the Project according to the terms laid down in Annex III.

#### **II.18.5 Notification of the final grant amount**

The NA shall inform the coordinator of the final grant amount by way of a formal notification letter sent within 60 calendar days of receipt of the final report from the coordinator. The coordinator shall make any observations on the final grant amount within 30 calendar days from the receipt of notification letter.

In so far as the coordinator submits his observations to the NA within the authorised period, the NA shall analyse them and inform the coordinator of the final grant amount by way of a notification letter specifying the revised final grant amount within 30 calendar days of receipt of the observations from the coordinator.

The provisions set out in this Article are without prejudice to the possibility for the coordinator or the NA to take legal action against the other party in accordance with the provisions set out in Article I.8.2.

## **ARTICLE II.19 – RECOVERY**

### **II.19.1 Recovery at the time of payment of the balance**

Where the payment of the balance takes the form of a recovery, the coordinator shall repay the NA the amount in question, even if it has not been the final recipient of the amount due.

### **II.19.2 Recovery after payment of the balance**

Where an amount is to be recovered in accordance with Articles II.20.5 and II.20.6, the coordinator or the beneficiary concerned by the audit or OLAF findings shall repay the NA the amount in question. Where the audit findings do not concern a specific beneficiary, the coordinator shall repay the NA the amount in question, even if it has not been the final recipient of the amount due.

### **II.19.3 Recovery procedure**

Before recovery, the NA shall formally notify through a notification letter the coordinator or the beneficiary concerned of its intention to recover the amount unduly paid, specifying the amount due and the reasons for recovery and inviting the beneficiary to make any observations within 30 calendar days from the receipt of notification letter.

In case the coordinator or the beneficiary concerned submits its observations within the period thereof, the NA shall send the related party a notification letter with the revised final grant amount, the amount due for reimbursement and the instructions for recovery.

If the coordinator or the beneficiary concerned has not reimbursed the amount due by the date specified in the notification letter or has not provided any observations by the due date, the NA shall recover, whenever possible, the amount due by offsetting it against any amounts owed to the coordinator or the beneficiary concerned by the NA after informing him accordingly that the amount due for reimbursement will be deducted from a payment underway or from a future payment.

If the reimbursement has not been received from the coordinator or the beneficiary concerned following the above provisions the NA shall recover the amount due:

- (a) by drawing on the financial guarantee where provided for in accordance with Article I.4.1);
- (b) by taking legal action in accordance with national law as determined in accordance with Article I.8.

### **II.19.4 Interest on late payment**

If payment has not been made by the date set out in the in notification letter the amount due shall bear interest at the rate established in Article II.17.5. Interest on late payment shall

cover the period running from the day following the due date for payment, up to and including the date when the NA actually receives payment in full of the outstanding amount.

Any partial payment shall first be appropriated against charges and interest on late payment and then against the principal.

### **II.19.5 Bank charges**

Bank charges incurred in connection with the recovery of the sums owed to the NA shall be borne by the beneficiary concerned except where 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 applies.

## **ARTICLE II.20 – CHECKS AND AUDITS**

### **II.20.1 Technical and financial checks or audits**

The NA and the Commission may carry out technical and financial checks and audits in relation to the use of the grant

Information and documents provided in the framework of checks or audits shall be treated on a confidential basis.

Checks and audits made by the NA and the Commission may be carried out either directly by its own staff or by any other outside body authorised to do so on their behalf. Checks and audits may be undertaken on the basis of desk checks at the premises of the NA, the Commission or any person or body mandated by them, or they can take place on the spot at the premises of the beneficiary or sites and premises where the Project is or was carried out.

The beneficiaries shall grant the NA, the Commission as well as any person or body mandated by them a full right of access to all documents concerning the implementation of the Project, its results and the use of the grant in accordance with the terms and conditions of the present Agreement. The beneficiaries shall grant them also access to the sites and premises where the Project is or was carried out. This right of access shall be granted until five years after the date of the payment of the balance of the grant or the reimbursement thereof by the beneficiaries, unless a longer duration is required by the national law.

Checks and audits may be initiated during the implementation of the Agreement and for a period of five years starting from the date of payment of the balance. This period shall be limited to three years if the maximum amount specified in Article I.3.1 is not more than EUR 60 000.

The check or audit procedure shall be deemed to be initiated on the date of receipt of the letter of the NA announcing it.

### **II.20.2 Duty to keep documents**

The beneficiaries shall keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by their respective national law and under the conditions laid down therein, for a period of five years starting from the date of payment of the balance, unless a longer duration is required by the national law.

If the maximum amount specified in Article I.3.1 is not more than EUR 60 000, this period shall be limited to three years, unless a longer duration is required by the national law.

The periods set out in the first and second subparagraphs shall be longer if there are on-going audits, appeals, litigation or pursuit of claims concerning the grant. In such cases, the beneficiaries shall keep the documents until such audits, appeals, litigation or pursuits of claims are closed.

### **II.20.3 Obligation to provide information**

Where a check or audit is initiated before the payment of the balance, the coordinator shall provide any information, including information in electronic format, requested by the NA or by any other outside body authorised by it. Where appropriate, the NA may request such information to be provided directly by a beneficiary.

Where a check or audit is initiated after payment of the balance, such information shall be provided by the beneficiary concerned.

The NA may request this information in the context of checks and audits as referred to in Article II.20.1.

In case the beneficiary concerned does not comply with the obligations set out in the first and second subparagraphs, the NA may consider:

- (a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible;
- (b) any unit contribution insufficiently substantiated by information provided by the beneficiary as undue.

### **II.20.4 Contradictory audit procedure**

On the basis of the findings established during any checks or audits, the NA shall send within 30 calendar days of the end of the check a provisional report to the beneficiary concerned, who shall have 30 calendar days from the date of receipt to submit its observations. The NA shall send its final report to the beneficiary within 30 calendar days of expiry of the time limit for submission of observations by the beneficiary concerned.

### **II.20.5 Effects of findings of audit and checks**

On the basis of the final findings of audits or checks, the NA may take the measures which it considers necessary, including recovery at the time of payment of the balance or after

payment of the balance of all or part of the payments made by it, in accordance with Article II.19.

In the case of final findings of audits or checks made after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final amount of the grant, determined in accordance with Article II.18, and the total amount paid to the beneficiaries under the Agreement for the implementation of the Project

#### **II.20.6 Checks and inspections by OLAF**

The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in (i) Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council 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 and (ii) Council Regulation (Euratom, EC) No. 2185/96 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 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with this grant decision.

#### **II.20.9 Checks and audits by the European Court of Auditors**

The European Court of Auditors shall have the same rights as the NA and the Commission, notably right of access, for the purpose of checks and audits.

### **ARTICLE II.21 – MONITORING AND EVALUATION**

#### **II.21.1 Monitoring and evaluation of the Project**

The beneficiaries accept to participate in and contribute to monitoring and evaluation activities organised by the NA and the European Commission as well as by any persons and bodies mandated by them.

In this context, the beneficiaries shall grant the NA, the European Commission as well as any persons and bodies mandated by them a full right of access to all documents concerning the implementation of the Project and its results. This right of access shall be granted until five years after the date of the payment of the balance of the grant or the reimbursement thereof by the beneficiaries.

#### **II.21.2 Periodic assessment of unit contributions**

The beneficiaries accept that the NA and the Commission may check the statutory records of the beneficiaries for the purpose of periodic assessments of unit contribution levels.

Such checks shall not result in an adjustment of the final grant amount under this Agreement, but may be used by the NA and the Commission in view of possible future updates of unit contribution levels.