



## **Annex IV(a)**

EUROPEAN CENTRE FOR DISEASE PREVENTION AND CONTROL

**Disease Programme Unit**

### **FRAMEWORK PARTNERSHIP AGREEMENT**

**FRAMEWORK AGREEMENT NUMBER – ECDC/GRANT/[...]**

The European Centre for Disease Prevention and Control (hereinafter referred to as "the Centre"), represented for the purposes of signature of this Framework partnership agreement by Director, [forename and surname],

on the one part,

and

[Partner 1]

**[full official name] [ACRONYM]**

[official legal status or form]

[official registration No]

[official address in full]

[VAT number],

[appointed as the leader of the consortium by the members of the consortium that submitted the joint application,]

[and]

[Partner 2]

**[full official name] [ACRONYM]**

[official legal status or form]

[official registration No]

[official address in full]

[VAT number],

.....

hereinafter referred to as “the partner”, represented for the purposes of signature of this Framework partnership agreement by [function, forename and surname]

[The parties identified above and hereinafter collectively referred to as 'the partner' shall be jointly and severally liable vis-a-vis the contracting authority for the performance of this framework partnership agreement and represented for the purposes of signature of this Framework partnership agreement by [function, forename and surname]]

on the other part,

## HAVE AGREED

to the Special Conditions (hereinafter referred to as “the Special Conditions”), and the following Annexes:

- Annex I      Action plan (call for proposals Grant/2022/DPR/13440 and submitted proposal dated \_\_\_\_\_)
- Annex II      General Conditions (hereinafter referred to as “the General Conditions”)
- Annex III     Model specific grant agreement
- Annex IV     Model technical report: not applicable
- Annex V      Model financial statement
- Annex VI     Estimated budget
- Annex VII    Model terms of reference for the certificate on the financial statements: not applicable
- Annex VIII   Model terms of reference for the operational verification report: not applicable
- Annex IX     Model terms of reference for the certificate on the compliance of the cost accounting practices: not applicable

which form an integral part of this Framework partnership agreement, hereinafter referred to as "the Framework agreement".

The provisions in the Special Conditions, of which the Preamble forms an integral part shall take precedence over those in the Annexes.

The terms of Annex II "General Conditions" shall take precedence over the other Annexes.

## PREAMBLE

The European Centre for Disease Prevention and Control (ECDC) was established by the European Parliament and Council Regulation 851/2004 of 21 April 2004 to identify, assess and communicate current and emerging threats to human health from communicable diseases.

In the ECDC founding regulation it is clearly stated that ECDC within its mandate shall coordinate the surveillance activities at the Community level as well as other activities important for identification, assessment, and communication of emerging threats to human health from communicable disease. Within this broad mission statement, the Centre coordinates work in the general area of microbiology cooperation and also in the disease specific area of tuberculosis.

The programme was set up in 2006 and covers all aspects of tuberculosis (TB), a disease that remains an important threat to human health worldwide and in Europe. Despite the fact that the situation concerning TB in the European Union (EU) has improved over the past decades, TB continues to be a threat to the health of European citizens.

Good laboratory services in the countries are essential for strengthening the EU level surveillance and for supporting public health actions. This statement is particularly valid in the case of MDR-TB. A lot has been achieved through the public health and research laboratory networks, in the former EuroTB, the DG Research funded projects and ERLTB-Net activities, to improve and standardize laboratory methodology and systems. The ECDC is building on this work and supports the strengthening of laboratory capacity in the Member States (MS), EEA countries and the EU enlargement Countries in collaboration with the Commission, the WHO, and the ECDC competent bodies.

In order to support the implementation of ECDC activities in TB laboratory area, a specific network of experts is going to be created based on the experience of the ERLTB-Net. Members of the network will be officially appointed by the National Competent Bodies. The network will provide ECDC with the expertise and information needed to implement the actions in the scope of this framework partnership agreement.

**The main purpose of this framework partnership agreement is to continue, improve and further develop activities of the ERLTB-Net project, built on the successful experience, in order to carry out actions related to the areas mentioned above.**

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## **SPECIAL CONDITIONS**

### **ARTICLE I.1 – SUBJECT MATTER OF THE FRAMEWORK AGREEMENT - AWARD OF SPECIFIC GRANTS**

#### **I.1.1 Subject matter of the Framework agreement**

**I.1.1.1** The Framework agreement is concluded as part of a long-term cooperation between the Centre and the partner (hereinafter referred to as "the partnership") with the aim to contribute to the objectives of the Centre in the field of strengthening Europe's defences against infectious diseases as referred to in the Preamble.

The Framework agreement defines the general rights and obligations of the parties in implementing their partnership.

**I.1.1.2** The partnership shall be implemented in compliance with the Action plan set out in Annex I.

**I.1.1.3.** For the purposes of implementing the partnership the Centre may award to the partner specific grants for an action.

The Framework agreement shall apply to any specific grant awarded for implementation of the partnership and to the respective specific grant agreements (hereinafter referred to as "Specific agreements") concluded between the parties.

Signature of the Framework agreement shall not give rise to any obligation of the Centre to award specific grants. It shall be without prejudice to the partner's participation in other calls for proposals for the purposes of award of grants outside the scope of the Action plan (Annex I).

#### **I.1.2 Procedure for award of specific grants**

The Centre may consult its partner in order to obtain a proposal for an action in line with the Action plan set out in Annex I. Such consultation shall take place on the basis of an invitation to submit a proposal. The partner shall not be obliged to submit a proposal in response to such a consultation.

#### **I.1.3. Conclusion of Specific agreements**

Where the Centre decides to award a specific grant, it shall propose to the partner to sign a Specific agreement in accordance with the model set out in Annex III. The Specific agreement shall be signed by the authorised representatives of the parties.

By signing the Specific agreement, the partner accepts the grant and agrees to carry out the action acting on its own responsibility in accordance with the terms and conditions laid down in the Framework agreement and the Specific agreement.

Specific agreements shall be signed before the date when the Framework agreement expires. Where the actions are carried out after the above-mentioned date, the terms of the Framework agreement shall continue to apply to the implementation of the Specific agreements governed by the Framework agreement.

## **ARTICLE I.2 – ENTRY INTO FORCE OF THE FRAMEWORK AGREEMENT AND DURATION OF THE PARTNERSHIP**

**I.2.1** The Framework agreement shall enter into force on the date on which the last party signs it.

**I.2.2** The Framework agreement shall be concluded for a period of four years starting from the date of its entry into force.

## **ARTICLE I.3 – BANK ACCOUNT FOR PAYMENTS**

All payments must be made to the partner's bank account as indicated below:

Name of bank: [...]

Precise denomination of the account holder: [...]

Full account number (including bank codes): [...]

[IBAN code: [...]]

## **ARTICLE I.4 - DATA CONTROLLER AND COMMUNICATION DETAILS OF THE PARTIES**

### **I.4.1 Data controller**

The entity acting as a data controller according to Article II.7 shall be the Centre.

### **I.4.2 Communication details of the Centre**

Any communication addressed to the Centre shall be sent to the following address:

ECDC

Attn: Csaba Ködmon, Project manager

Gustav III:s boulevard 40

169 73 Solna, Sweden

Email: tuberculosis@ecdc.europa.eu



### **I.4.3 Communication details of the partner**

Any communication from the Centre to the partner shall be sent to the following address:

[Full name]  
[Function]  
[Name of the entity]  
[Full official address]  
E-mail address: [complete]

### **I.4.4 Electronic exchange of documents**

At the request of the Centre, the use of electronic means to exchange documents may become mandatory. The procedure may cover the steps going from the submission of a proposal for action to the submission of the request for payment.

## **ARTICLE I.5 – INELIGIBILITY OF COSTS**

In addition to any other costs which do not fulfil the conditions set out in Article II.19 “Eligible costs”, the following costs shall not be considered eligible under Article II.19.2 (b)

- Travel costs of individual transfers by taxi to/from the airport; unless public transport is an unsuitable alternative because of itinerary specificities or of early or late hours.

## **ARTICLE I.6 – SPECIAL PROVISIONS ON BUDGET TRANSFERS**

By way of derogation from the first subparagraph of Article II.22, budget transfers between budget categories are limited to 25% of the amount of each budget category for which the transfer is intended.

## **ARTICLE I.7 – CO-FINANCING OF THE ACTION**

The action is co-financed by the Centre and the partner:

- the partner shall contribute to the action by a minimum of 10% of the estimated eligible costs of the action;
- the Centre shall contribute to the action up to a maximum of 90% of the estimated eligible costs of the action.

**ARTICLE I.8 CERTIFICATES ON THE FINANCIAL STATEMENTS**

Certificates on the financial statements to be provided by the partner in accordance with Article II.24 may be established by its regular internal or external auditor, in accordance with its internal financial regulations and procedures.

**[ARTICLE I.XX – ENTITIES AFFILIATED TO THE PARTNER**

*The following entities are considered as affiliated entities to the partner:*

- *[name of the entity];*
- *[name of the entity];*

*[idem for further affiliated entities*

*The partner shall inform the Centre immediately of any change in the legal, financial, technical, organisational or ownership situation of its affiliated entities and of any change in their name and address.]*

**SIGNATURES**

For the partner

*[function/forename/surname]*

For the Centre

*[function/forename/surname]*

*[signature]*

Done at [place], [date]

*[signature]*

Done at Solna, [date]

In duplicate in English

## II. GENERAL CONDITIONS

### PART A – LEGAL AND ADMINISTRATIVE PROVISIONS

#### ARTICLE II.1 - DEFINITIONS

The following definitions apply for the purpose of the Framework agreement and the Specific agreements:

**‘Action’**: in case of a specific *grant for an action*, the term refers to the set of activities or the project for which the grant is awarded; in case of an *operating grant*, the term refers to the work programme for which the specific grant is awarded;

**‘Confidential information or document’**: any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Framework agreement or a Specific agreement. It does not include information that is publicly available;

**‘Conflict of interests’**: a situation where the impartial and objective implementation of the Framework agreement or a Specific agreement by the partner is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with the Centre or any third party related to the subject matter of the Framework agreement or a Specific agreement;

**‘Direct costs’**: those specific costs which are directly linked to the implementation of the action and can therefore be attributed directly to it. They may not include any indirect costs;

**‘Force majeure’**: any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the Framework agreement or a Specific agreement, which is not attributable to error or negligence on their part or on the part of the subcontractors affiliated entities or third parties in receipt of financial support and which proves to be inevitable despite their exercising due diligence. The following cannot be invoked as *force majeure*: labour disputes, strikes, financial difficulties or any default of a service, defect in equipment or materials or delays in making them available, unless they stem directly from a relevant case of *force majeure*;

**‘Formal notification’**: form of communication between the parties made in writing by mail or electronic mail which provides the sender with compelling evidence that the message was delivered to the specified recipient;

**‘Fraud’**: any intentional act or omission affecting the Union’s financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents, to non-disclosure of information in violation of a specific obligation;

**‘Implementation period’**: the period of implementation of the Framework agreement as specified in I.2.2 or the period of implementation of the activities forming part of the action, as specified in Article 2.2 of the Specific agreement;

**‘Indirect costs’:** those costs which are not specific costs directly linked to the implementation of the action and which therefore cannot be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs;

**‘Irregularity’:** any infringement of a provision of Union law resulting from an act or omission by the partner, which has or would have the effect of prejudicing the Union’s budget;

**‘Maximum amount of the grant’:** the maximum EU contribution to the action, as defined in Article 3.1 of the Specific agreement;

**‘Pre-existing material’:** any materials, document, technology or know-how which exists prior to the partner using it for the production of a result in the implementation of the action;

**‘Pre-existing right’:** any industrial and intellectual property right on pre-existing material; it may consist in a right of ownership, a licence right and/or a right of use belonging to the partner or any other third parties;

**‘Related person’:** any person who has the power to represent the partner or to take decisions on its behalf;

**‘Starting date’:** the date on which the implementation of the action starts as provided for in Article 2.2 of the Specific agreement;

**‘Subcontract’:** a procurement contract within the meaning of Article II.11, which covers the implementation by a third party of tasks forming part of the action as described in Annex I of the Specific agreement;

**‘Substantial error’:** any infringement of a provision of the Framework agreement or a Specific agreement resulting from an act or omission, which causes or might cause a loss to the Union’s budget.

## **ARTICLE II.2 – GENERAL OBLIGATIONS OF THE PARTNER**

The partner shall:

- (a) respect the common general objectives that formed the basis for establishing the partnership, as mentioned in the Preamble and in the Action plan set out in Annex I, and endeavour to achieve in practice those objectives in each action for which a specific grant is awarded;
- (b) maintain relations of mutual co-operation and regular and transparent exchanges of information with the Centre on the implementation and the follow-up to implementation of the Action plan set out in Annex I and of any specific grant awarded by the Centre under the Framework agreement, as well as on other matters of common interest related to the Framework agreement;

- (c) comply with any legal obligations it is bound by under applicable EU, international and national law;
- (d) carry out the actions, for which specific grants were awarded, in accordance with the terms and conditions of the Framework agreement and the Specific agreements;
- (e) inform the Centre immediately of any change in its legal, financial, technical, organisational or ownership situation and of any change in its name, address or legal representative;
- (f) inform the Centre immediately of any change likely to affect or delay the implementation of an action, for which a specific grant was awarded, of which the partner is aware.

## **ARTICLE II.3 – COMMUNICATIONS BETWEEN THE PARTIES**

### **II.3.1 Form and means of communications**

Any communication relating to the Framework agreement or a Specific agreement or to their implementation shall be made in writing (in paper or electronic form), shall bear the number of the agreement concerned and shall be made using the communication details identified in Article I.3.

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 as soon as possible.

### **II.3.2 Date of communications**

Any communication is deemed to have been made when the receiving party receives it, unless the Framework agreement or the Specific agreement refer 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.3. The sending party must be able to prove the date of dispatch. 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.3. 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 Centre using the postal services is considered to have been received by the Centre on the date on which it is registered by the Centre.

Formal notifications are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the message was delivered to the specified recipient..

## **ARTICLE II.4 – LIABILITY FOR DAMAGES**

**II.4.1** The Centre shall not be held liable for any damage caused or sustained by the partner, including any damage caused to third parties as a consequence of or during the implementation of an action.

**II.4.2** Except in cases of force majeure, the partner shall compensate the Centre for any damage sustained by it as a result of the implementation of an action or because an action was not implemented in full compliance with the Framework agreement or the Specific agreement.

## **ARTICLE II.5 - CONFLICT OF INTERESTS**

**II.5.1** The partner must take all necessary measures to prevent any situation of conflict of interests.

**II.5.2** Any situation constituting or likely to lead to a conflict of interests during the implementation of the Framework agreement or the Specific agreements shall be notified to the Centre, in writing, without delay. The partner shall immediately take all the necessary steps to rectify this situation. The Centre 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.6 – CONFIDENTIALITY**

**II.6.1** The Centre and the partner 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 Framework agreement or the Specific agreements.

**II.6.2** The parties shall not use confidential information and documents for any reason other than fulfilling its obligations under the Framework agreement and the Specific agreements, unless otherwise agreed with the other party in writing.

**II.6.3** The Centre and the partner shall be bound by the obligations referred to in Articles II.6.1 and II.6.2 during the implementation of the Framework agreement and the Specific agreements and for a period of five years starting from the payment of the balance under the Specific agreement concerned, unless:

- (a) the concerned party 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.7 – PROCESSING OF PERSONAL DATA**

### **II.7.1 Processing of personal data by the Centre**

Any personal data included in the Framework agreement and the Specific agreements shall be processed by the Centre pursuant to Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decisions No 1247/2002/EC.

Such data shall be processed by the data controller identified in Article I.3.1 solely for the purposes of the implementation, management and monitoring of the Framework agreement and the Specific agreements, or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article II.26.

The partner shall have the right of access to his/her personal data and the right to rectify any such data. Should the partner have any queries concerning the processing of his/her personal data, He/she shall address them to the data controller, identified in Article I.3.1.

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

### **II.7.2 Processing of personal data by the partner**

Where the Framework agreement or the Specific agreement requires the processing of personal data by the partner, the partner may act only under the supervision of the data controller identified in Article I.3.1, 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 partner must process personal data under the Framework agreement and the Specific agreements in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

The partner may grant its personnel access only to data that is strictly necessary for implementing, managing and monitoring the Framework agreement and the Specific agreements.

The partner shall 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 Centre;
- (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 its organisational structure in such a way that it meets data protection requirements.

## **ARTICLE II.8 – VISIBILITY OF THE CENTRE FUNDING**

### **II.8.1 Information on the Centre funding and use of the Centre logo**

Unless the Centre requests or agrees otherwise, any communication or publication related to an action, made by the partner, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, etc.), shall indicate that the action has received funding from the Centre and shall display the Centre logo.

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



The obligation to display the Centre logo does not confer to the partner a right of exclusive use. The partner shall not appropriate the Centre logo or any similar trademark or logo, either by registration or by any other means.

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the partner is exempted from the obligation to obtain prior permission from the Centre to use the Centre logo.

#### **II.8.2 Disclaimers excluding the Centre responsibility**

Any communication or publication related to an action, made by the partner in any form and using any means, shall indicate that it reflects only the author's view and that the Centre is not responsible for any use that may be made of the information it contains.

### **ARTICLE II.9 – PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)**

#### **II.9.1 Ownership of the results by the partner**

Unless stipulated otherwise in the Specific agreement, ownership of the results of an action, including industrial and intellectual property rights, and of the reports and other documents relating to it, shall be vested in the partner.

#### **II.9.2 Pre-existing industrial and intellectual property rights**

If the Centre sends the partner a written request specifying which of the results it intends to use, the partner must:

- (a) establish a list specifying all pre-existing rights included in those results; and
  - (b) provide this list to the Centre at the latest with the request for payment of the balance.
- The partner shall ensure that it or its affiliated entities have all the rights to use any pre-existing rights during the implementation of the Specific agreement.

#### **II.9.3 Rights of use of the results and of pre-existing rights by the Centre**

Without prejudice to Articles II.2, II.4 and II.9.1, the partner grants the Centre the right to use the results of an action for the following purposes:

- (a) use for its own purposes, and in particular, making available to persons working for the Centre, other 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 Centre or Europa websites, 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 Centre;
- (g) rights to authorise or sub-licence the modes of exploitation set out in points (b) and (c) to third parties.

The above rights of use may be further specified in the Special Conditions.

Additional rights of use for the Centre may be provided for in the Specific agreement.

The partner shall warrant that the Centre has the right to use any pre-existing rights, which have been included in the results of an action. Unless specified otherwise in the Special conditions or the Specific agreement, 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 action.

Information about the copyright owner shall be inserted when the result is divulged by the Centre. The copyright information shall read: "© – year – name of the copyright owner. All rights reserved. Licenced to the European Centre for Disease Prevention and Control under conditions."

If the beneficiary grants rights of use to the Centre, this does not affect its confidentiality obligations under Article II.6 or the beneficiary's obligation under Article II.2.

## **ARTICLE II.10 – AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF AN ACTION**

**II.10.1** Where the implementation of an action requires the procurement of goods, works or services, the partner 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, it shall avoid any conflict of interests.

The partner must ensure that Article II.26 is also applicable to the partners' contractors, in particular that the Commission, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.26 towards the contractors.

**II.10.2** The partner that is a "contracting authority" within the meaning of Directive 2014/24/EU or "contracting authority" within the meaning of Directive 2014/25/EU must comply with the applicable national public procurement rules.

The partner shall ensure that the conditions applicable to it under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractor.

**II.10.3** The partner shall retain sole responsibility for carrying out the action concerned and for compliance with the provisions of the Framework agreement and the Specific agreement. The partner shall ensure that any procurement contract contains provisions stipulating that the contractor has no rights vis-à-vis the Centre under the Framework agreement or the Specific agreement.

**II.10.4** If the partner breaches its obligations under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (c), (d) and (e). If the partner breaches its obligations under Article II.10.2 the grant may be reduced in accordance with Article II.24.4.

## **ARTICLE II.11 – SUBCONTRACTING OF TASKS FORMING PART OF AN ACTION**

**II.11.1** The partner may subcontract tasks forming part of an action, provided that, in addition to the conditions specified in Article II.10 and the Special Conditions, the following conditions are complied with:

- (a) subcontracting only covers the implementation of a limited part of the action;
- (b) recourse to subcontracting is justified having regard to the nature of the action 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 of the Specific agreement;
- (d) any recourse to subcontracting, if not provided for in Annex I of the Specific agreement, is communicated by the partner and approved by the Center. The Centre may grant approval:
  - (i) before any recourse to subcontracting, if the partner requests an amendment as provided for in Article II.13; or
  - (ii) after recourse to subcontracting if the subcontracting:
    - is specifically justified in the final technical report referred to in Articles 4.3 and 4.4 of the Specific agreement; and
    - does not entail changes to the Framework agreement or the Specific agreement which would call into question the decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants;

(e) the partner ensures that the conditions applicable to it under Article II.8 are also applicable to the subcontractors.

**II.11.2** If the partner breaches its obligations under Article II.11.1 (a), (b), (c) or (d), the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (f).

If the partner breaches its obligation under Article II.11.1 (e) the grant may be reduced in accordance with Article II.24.4.

## **ARTICLE II.12 - FINANCIAL SUPPORT TO THIRD PARTIES**

**II.12.1** Where the implementation of an action requires giving financial support to third parties, the partner shall give such financial support in accordance with the conditions specified in Annex I of the Specific agreement, which shall at least contain:

- (a) the maximum amount of financial support, which shall not exceed EUR 60 000 for each third party except where the financial support is the primary aim of the action as specified in Annex I of the Specific agreement;
- (b) the criteria for determining the exact amount of the financial support;
- (c) the different types of activity that may receive financial support, on the basis of a fixed list;
- (d) the persons or categories of persons which may receive financial support;
- (e) the criteria for giving the financial support.

**II.12.2** By way of derogation from Article II.12.1, in case the financial support takes the form of a prize, the partner shall give such financial support in accordance with the conditions specified in Annex I of the Specific agreement, which shall at least contain:

- (a) the conditions for participation;
- (b) the award criteria;
- (c) the amount of the prize;
- (d) the payment arrangements.

**II.12.3** The partner shall ensure that the conditions applicable to it under Articles II.4, II.5, II.6, II.8, II.9 and II.26 are also applicable to the third parties receiving financial support.

## **ARTICLE II.13 – AMENDMENTS TO THE FRAMEWORK AGREEMENT AND THE SPECIFIC AGREEMENTS**

- II.13.1** Any amendment to the Framework agreement or a Specific agreement shall be made in writing.
- II.13.2** An amendment may not have the purpose or the effect of making changes to the Framework agreement or the Specific agreement which would call into question the Centre's decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants.
- II.13.3** Any request for amendment shall be duly justified and be accompanied by appropriate supporting documents. Such a request 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 implementation period, except in cases duly substantiated by the party requesting the amendment and accepted by the other party.
- II.13.4** In case of a specific operating grant the period set out in Article 2.2 may not be extended via amendments.
- II.13.5** 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.14 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES**

- II.14.1** Claims for payments of the partner against the Centre 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 Centre if it has accepted the assignment on the basis of a written and reasoned request to that effect made by the partner. 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 Centre.

- II.14.2** In no circumstances shall such an assignment release the partner from its obligations towards the Centre.

## ARTICLE II.15 – FORCE MAJEURE

- II.15.1** A party faced with *force majeure* shall formally notify the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.
- II.15.2** 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 action as soon as possible.
- II.15.4** The party faced with *force majeure* may not be considered in breach of its obligations under the Framework agreement or a Specific agreement if it has been prevented from fulfilling them by *force majeure*.

## ARTICLE II.16 – SUSPENSION OF THE IMPLEMENTATION

### II.16.1 Suspension of the implementation of an action by the partner

The partner may suspend the implementation of an action or any part thereof, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*.

The partner shall immediately inform the Centre stating:

- (a) the reasons for suspension, including details about the date or period when the exceptional circumstances occurred; and
- (b) the expected date of resumption.

Once the circumstances allow the partner to resume implementing the action, the partner shall inform the Centre immediately and present a request for amendment of the Framework agreement or a Specific agreement as provided for in Article II.16.3. This obligation does not apply if the Framework agreement or Specific agreement is terminated in accordance with Article II.17.1 or points (b) or (c) of Article II.17.2.2.

### II.16.2 Suspension of the implementation by the Centre

**II.16.2.1** The Centre may suspend the implementation of an action or any part thereof or the implementation of the Framework agreement:

- (a) if the Centre has evidence that the partner has committed substantial errors, irregularities or fraud in the award procedure or while implementing the Framework agreement or the Specific agreements or if the partner fails to comply with its obligations under those agreements;
- (b) if the Centre has evidence that the partner has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under other

grants funded by the Centre or the Union or the European Atomic Energy Community which were awarded to the partner under similar conditions, provided that those errors, irregularities, fraud or breach of obligations have a material impact on one or more specific grants awarded under the Framework agreement; or

- (c) if the Centre suspects substantial errors, irregularities, fraud or breach of obligations committed by the partner in the award procedure or while implementing the Framework agreement or the Specific agreements and needs to verify whether they have actually occurred.

The implementation of each action for which a specific grant has been awarded is deemed automatically suspended from the date on which the suspension of the implementation of the Framework agreement takes effect.

### **II.16.2.2 Procedure for suspension**

**Step 1** — Before suspending implementation of an action, the Centre shall send a formal notification to the partner:

- (a) informing it of:
  - (i) its intention to suspend the implementation;
  - (ii) the reasons for suspension;
  - (iii) the necessary conditions for resuming the implementation of the Framework agreement or of the action in the cases referred to in points (a) and (b) of Article II.16.2.1; and
- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

**Step 2** — If the Centre does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a formal notification to the partner informing it of:

- (a) the suspension of the implementation;
- (b) the reasons for suspension; and
- (c) the final conditions for resuming the implementation of the Framework agreement or of the action in the cases referred to in points (a) and (b) of Article II.16.2.1; or
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.16.2.1.

The suspension takes effect on the day the formal notification is received by the partner or on a later date specified in the formal notification. Otherwise, the Centre must send a formal notification to the partner informing it that it is not continuing the suspension procedure.

### **II.16.2.3 Resuming implementation**

In order to resume the implementation, the partner must meet the notified conditions as soon as possible and must inform the Centre of any progress made.

If the conditions for resuming the implementation of the Framework agreement or the Specific agreements are met or the necessary verifications are carried out, the Centre must send a formal notification to the partner:

- (a) informing it that the conditions for lifting the suspension are met; and

(b) requiring it to present a request for amendment of the agreement concerned as provided for in Article II.16.3. This obligation does not apply if the Framework agreement or the Specific agreement is terminated in accordance with Articles II.17.1 or points (b), (f) or (g) of Article II.17.2.2.

### **II.16.3 Effects of the suspension**

**II.16.3.1** If the Framework agreement is not terminated, it may be adapted to the new implementing conditions in accordance with Article II.13.

The suspension of the implementation of the Framework agreement and of all automatically suspended actions in accordance with the last subparagraph of Article II.16.2.1 is deemed lifted as from the date of the notification by the Centre referred to in point (a) of Article II.16.2.3. In this case Article II.16.3.2 does not apply.

**II.16.3.2** If the implementation of a suspended action can be resumed and the Specific agreement is not terminated, an amendment to the Specific agreement shall be made in accordance with Article II.13 in order to establish the date on which the action shall be resumed, to extend the duration of the action and to make any other modifications that may be necessary to adapt the action to the new implementing conditions.

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

**II.16.3.3** Any costs incurred by the partner, during the period of suspension, for the implementation of the suspended action or the suspended part thereof, may not be reimbursed or covered by the grant.

The right of the Centre to suspend the implementation of the action or of the Framework agreement is without prejudice to its right to terminate the Framework agreement or the Specific agreement in accordance with Article II.17.2 and its right to reduce the grant or recover amounts unduly paid in accordance with Articles II.24.4 and II.25.

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

## **ARTICLE II.17 – TERMINATION OF THE FRAMEWORK AGREEMENT AND THE SPECIFIC AGREEMENTS**

### **II.17.1 Termination of the Framework agreement or a Specific agreement by the partner**

#### **II.17.1.1 Termination of the Framework agreement**



The partner may terminate the Framework agreement without specifying the reasons for termination.

The partner must send a *formal notification* of termination to the Centre stating the date on which the termination takes effect. This date must be set after the *formal notification*.

#### **II.17.1.2 Termination of a Specific agreement**

The partner may terminate a Specific agreement.

The partner must send a *formal notification* of termination to the Centre, stating:

- (a) the reasons for termination; and
- (b) the date on which the termination takes effect. This date must be set after the *formal notification*.

If the partner does not state the reasons for the termination or if the Centre considers that the reasons do not justify termination, the Specific agreement is considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

### **II.17.2 Termination of the Framework agreement or a Specific agreement by the Centre**

#### **II.17.2.1 Termination of the Framework agreement**

The Centre may terminate the Framework agreement without specifying the reasons for termination.

The Centre must send a *formal notification* of termination to the partner specifying the date on which the termination takes effect. The notification must be sent before the termination is due to take effect.

#### **II.17.2.2 Termination of the Framework agreement or a Specific agreement based on explicit grounds**

The Centre may terminate the Framework agreement or a Specific agreement if:

- (a) a change to the partner's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Framework agreement or the Specific agreement substantially or calls into question the Centre's decision to establish the framework partnership or to award the specific grant;
- (b) the partner does not implement an *action* as described in Annex I of the Specific agreement or fails to comply with another substantial obligation incumbent on it under the Framework agreement or the Specific agreement;

- (c) the implementation of an *action* is prevented or suspended due to *force majeure* or exceptional circumstances and either:
  - i. resumption is impossible; or
  - ii. the necessary changes to the Framework agreement or the Specific agreement would call into question the decision to establish the framework partnership or to award the specific grant or be contrary to the equal treatment of applicants;
- (d) the partner or any person that assumes unlimited liability for the debts of the partner comes under any of the situations provided for in points (a) or (b) of Article 106(1) of the Financial Regulation<sup>1</sup>;
- (e) the partner or any related person comes under any of the situations provided for in points (c), (d), (e) or (f) of Article 106(1) or comes under Article 106(2) of the Financial Regulation;
- (f) the Centre has evidence that the partner or any *related person* has committed *substantial errors, irregularities or fraud* in the award procedure or while implementing the Framework agreement or any Specific agreement, including if the partner or *related person* has submitted false information or failed to provide required information;
- (g) the Centre has evidence that the partner has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other Union or Euratom grants awarded to it under similar conditions and such errors, irregularities, fraud or breach have a material impact on a specific grant awarded under the Framework agreement; or
- (h) the Centre has sent the partner a *formal notification* asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (e), (f) or (g) and the partner has failed to request an amendment ending the participation of the entity and reallocating its tasks.

### II.17.2.3 Procedure for termination based on explicit grounds

**Step 1-** Before terminating the Framework agreement or a Specific agreement on one of the grounds specified in Article II.17.2.2, the Centre must send a formal notification to the partner:

- (a) informing it of:
  - (i) its intention to terminate;
  - (ii) the reasons for termination; and
- (b) requiring it, within 45 calendar days of receiving the formal notification:
  - (i) to submit observations; and
  - (ii) in the case of point (b) of Article II.17.2.2, to inform the Centre of the measures to ensure compliance with the obligations under the Framework agreement or the Specific agreement concerned.

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<sup>1</sup> 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.

**Step 2** - If the Centre does not receive observations or decides to pursue the procedure despite the observations it has received, it will send a formal notification to the partner informing it of the termination and the date on which it takes effect.

Otherwise, the Centre must send a formal notification to the partner informing it that the termination procedure is not continued.

The termination takes effect:

- (a) for terminations under points (a), (b) and (d) of Article II.17.2.2: on the day specified in the formal notification of termination referred to in the second subparagraph (i.e. in Step 2 above);
- (b) for terminations under points (c), (e), (f), (g) and (h) of Article II.17.2.2: on the day after the partner receives the formal notification of termination referred to in the second subparagraph (i.e. in Step 2 above).

### **II.17.3 Effects of termination**

Where the Framework agreement is terminated by the partner in accordance with Article II.17.1.1 or by the Centre in accordance with Articles II.17.2.1 or II.17.2.2:

- a) the partner must complete the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect;
- b) the Centre must honour its obligations arising from the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect.

Within 60 calendar days from the day on which the termination of a Specific agreement takes effect, the partner must submit:

- (a) a periodic report (for the last open reporting period before termination); and
- (b) a final report.

If the Centre does not receive the reports by the above deadline, only costs which are included in an approved periodic report are reimbursed or covered by the specific grant.

If the Specific agreement is terminated by the Centre because the partner has breached its obligation to submit the reports, the partner may not submit any reports after termination. In that case the third subparagraph applies.

The Centre calculates the final grant amount as referred to in Article II.24 and the balance as referred to article II.23.4 on the basis of the reports submitted. Only costs incurred before termination takes effect are reimbursed or covered by the specific grant. Costs relating to contracts due for execution only after termination are not taken into account and are not reimbursed or covered by the grant.

The Centre may reduce a specific grant in accordance with Article II.23.4 in case of:

- improper termination of the Specific agreement by the partner within the meaning of Article II.17.1.2; or
- termination of the Specific agreement by the Centre on any of the grounds set out in points (b), (e), (f), (g) and (h) of Article II.17.2.2.

Neither party may claim damages on the grounds that the other party terminated the Framework agreement or a Specific agreement.

After termination, the partner's obligations continue to apply, in particular those under the Specific agreement, Articles II.6, II.8, II.9, II.14. II.26 and any additional provisions on the use of the results, as set out in the Special Conditions or the Specific agreement concerned.

## **ARTICLE II.18 – APPLICABLE LAW, SETTLEMENT OF DISPUTES AND ENFORCEABLE DECISION**

**II.18.1** The Framework agreement and any Specific agreement are governed by the applicable Union law complemented, where necessary, by the law of Sweden.

**II.18.2** Pursuant to Article 272 TFEU, the General Court or, on appeal, the Court of Justice of the European Union, shall have sole jurisdiction to hear any dispute between the Centre and the partner concerning the interpretation, application or validity of the Framework agreement or any Specific agreement, if such dispute cannot be settled amicably.

**II.18.3** By virtue of Article 299 TFEU, for the purposes of recoveries within the meaning of Article II.25 or financial penalties, the Centre may adopt an enforceable decision to impose pecuniary obligations on persons other than States. An action may be brought against such decision before the General Court of the European Union pursuant to Article 263 TFEU.

## **PART B – FINANCIAL PROVISIONS**

### **ARTICLE II.19 – ELIGIBLE COSTS**

#### **II.19.1 Conditions for the eligibility of costs**

"Eligible costs" of the action are costs actually incurred by the partner which meet the following criteria:

- (a) they are incurred within the implementation period of the specific agreement , with the exception of costs relating to the request for payment of the balance and the corresponding supporting documents referred to in Article II.23;
- (b) they are indicated in the estimated budget set out in Annex II of the Specific agreement;
- (c) they are incurred in connection with the action as described in Annex I of the Specific agreement and are necessary for its implementation;
- (d) they are identifiable and verifiable, in particular being recorded in the accounting records of the partner and determined according to the applicable accounting standards of the country where the partner is established and with the usual cost accounting practices of the partner;

- (e) they comply with the requirements of applicable tax and social legislation; and
- (f) they are reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency.

### **II.19.2 Eligible direct costs**

To be eligible, direct costs of an action shall comply with the conditions of eligibility set out in Article II.19.1.

In particular, the following categories of costs are eligible direct costs, provided that they satisfy the conditions of eligibility set out in Article II.19.1 as well as the following conditions:

- (a) the costs of personnel working under an employment contract with the partner or an equivalent appointing act and assigned to the action, provided that these costs are in line with the partner's usual policy on remuneration;

Those costs include actual salaries plus social security contributions and other statutory costs included in the remuneration;

The costs of natural persons working under a contract with the partner other than an employment contract or who are seconded to the partner by a third party against payment may be assimilated to such costs of personnel, provided that the following conditions are fulfilled:

- (i) the natural person works under the instructions of the partner and, unless otherwise agreed with the partner, in the premises of the partner;
  - (ii) the result of the work belongs to the partner (unless exceptionally agreed otherwise); and
  - (iii) the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the partner;
- (b) costs of travel and related subsistence allowances, provided that these costs are in line with the partner's usual practices on travel;
- (c) the depreciation costs of equipment or other assets (new or second-hand) as recorded in the partner's accounting statements, provided that the asset:
  - (i) is written off in accordance with the international accounting standards and the partner's usual accounting practices; and
  - (ii) has been purchased in accordance with Article II.10.1 if the purchase occurred within the implementation period.

The costs of renting or leasing 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;

Only the portion of the equipment's depreciation, rental or lease costs corresponding to the implementation period set out in Article 2.2 of the Specific agreement concerned and the rate of actual use for the purposes of the action may be taken into account. By way of exception, the Special Conditions or the Specific agreement may provide for the eligibility of the full cost of purchase of equipment, where justified by the nature of the action and the context of the use of the equipment or assets;

- (d) costs of consumables and supplies, provided that they:
  - (i) are purchased in accordance with Article II.10.1; and
  - (ii) are directly assigned to the action;
- (e) costs arising directly from requirements imposed by the Framework agreement or the Specific agreement (dissemination of information, specific evaluation of the action, audits, translations, reproduction), including the costs of requested financial guarantees, provided that the corresponding services are purchased in accordance with Article II.10.1;
- (f) costs entailed by subcontracts within the meaning of Article II.11, provided that the conditions laid down in Article II.11.1 (a), (b), (c) and (d) are met;
- (g) costs of financial support to third parties within the meaning of Article II.12, provided that the conditions laid down in that Article are met;
- (h) duties, taxes and charges paid by the partner, notably value added tax (VAT), provided that they are included in eligible direct costs, and unless specified otherwise in the Special Conditions or in the Specific agreement.

### **II.19.3 Eligible indirect costs**

To be eligible, indirect costs of the action shall represent a fair apportionment of the overall overheads of the partner and shall comply with the conditions of eligibility set out in Article II.19.1.

Unless otherwise specified in the Article 3 of the Specific agreement, eligible indirect costs shall be declared on the basis of a flat rate of 7% of the total eligible direct costs.

### **II.19.4 Ineligible costs**

In addition to any other costs which do not fulfill the conditions set out in Article II.19.1, the following costs shall not be considered eligible:

- (a) return on capital and dividends paid by the partner;
- (b) debt and debt service charges;
- (c) provisions for losses or debts;
- (d) interest owed;
- (e) doubtful debts;
- (f) exchange losses;

- (g) costs of transfers from the Centre charged by the bank of the partner;
- (h) costs declared by the partner in the framework of another action receiving a grant financed from the Centre budget or the Union budget (including grants awarded by a Member State and financed from the Union budget and grants awarded by other bodies than the Centre for the purpose of implementing the Union budget). In particular, if the partner receives an operating grant financed by the EU or Euratom budget, it may not declare indirect costs for the period(s) covered by the operating grant, unless it can demonstrate that the operating grant does not cover any costs of the action.
- (i) contributions in kind from third parties;
- (j) excessive or reckless expenditure;
- (k) deductible VAT.

## **ARTICLE II.20 – IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED**

### **II.20.1 Declaring costs and contributions**

The partner must declare as eligible costs or as a requested contribution:

- (a) for actual costs: the costs it actually incurred for the *action*;
- (b) for unit costs or unit contributions: the amount obtained by multiplying the amount per unit specified in Article 3.2 (a)(ii) or (b) of the Specific agreement by the actual number of units used or produced;
- (c) for lump sum costs or lump sum contributions: the global amount specified in Article 3.2 (a)(iii) or (c) of the Specific agreement, if the corresponding tasks or part of the *action* as described in Annex I of the Specific agreement have been implemented properly;
- (d) for flat-rate costs or flat-rate contributions: the amount obtained by applying the flat rate specified in Article 3.2 (a)(iv) or (d) of the Specific agreement;
- (e) for unit costs declared on the basis of the partner's usual cost accounting practices: the amount obtained by multiplying the amount per unit calculated in accordance with the partner's usual cost accounting practices by the actual number of units used or produced;
- (f) for lump sum costs declared on the basis of the partner's usual cost accounting practices: the global amount calculated in accordance with its usual cost accounting practices, if the corresponding tasks or part of the *action* have been implemented properly;
- (g) for flat-rate costs declared on the basis of the partner's usual cost accounting practices: the amount obtained by applying the flat rate calculated in accordance with the partner's usual cost accounting practices.

### **II.20.2 Records and other documentation to support the costs and contributions declared**

The partner must provide the following if requested to do so in the context of the checks or audits described in Article II.26:

- (a) for actual costs: adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records.

In addition, the partner's usual accounting and internal control procedures must permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements and with the amounts indicated in the supporting documents;

- (b) for unit costs or unit contributions: adequate supporting documents to prove the number of units declared.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared per unit;

- (c) for lump sum costs or lump sum contributions: adequate supporting documents to prove that the *action* has been properly implemented.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared as a lump sum;

- (d) for flat-rate costs or flat-rate contributions: adequate supporting documents to prove the eligible costs or requested contribution to which the flat rate applies.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, for the flat rate applied;

- (e) for unit costs declared on the basis of the partner's usual cost accounting practices: adequate supporting documents to prove the number of units declared;
- (f) for lump sum costs declared on the basis of the partner's usual cost accounting practices: adequate supporting documents to prove that the *action* has been properly implemented;
- (g) for flat-rate costs declared on the basis of the partner's usual cost accounting practices: adequate supporting documents to prove the eligible costs to which the flat rate applies.

## **II.20.3 Conditions to determine the compliance of cost accounting practices**

**II.20.3.1** In the case of points (e), (f) and (g) of Article II.20.2, the partner does not need to identify the actual eligible costs covered, but it must ensure that the cost accounting practices used for the purpose of declaring eligible costs are in compliance with the following conditions:

- (a) the cost accounting practices used constitute its usual cost accounting practices and are applied in a consistent manner, based on objective criteria independent from the source of funding;
- (b) the costs declared can be directly reconciled with the amounts recorded in its general accounts; and



- (c) the categories of costs used for the purpose of determining the costs declared are exclusive of any ineligible cost or costs covered by other forms of grant as provided for in Article 3.2 of the Specific agreement.

**II.20.3.2** If the Specific agreement so provides, the partner may submit to the Centre a request asking it to assess the compliance of its usual cost accounting practices. If required by the Specific agreement, the request must be accompanied by a certificate on the compliance of the cost accounting practices ('certificate on the compliance of the cost accounting practices').

The certificate on the compliance of the cost accounting practices must be:

- (a) produced by an approved auditor or, if the partner is a public body, by a competent and independent public officer; and
- (b) drawn up in accordance with Annex IX.

The certificate must certify that the partner's cost accounting practices used for the purpose of declaring eligible costs comply with the conditions laid down in Article II.20.3.1 and with the additional conditions that may be laid down in the Special conditions or in the Specific agreement.

**II.20.3.3** If the Centre has confirmed that the partner's usual cost accounting practices are in compliance, costs declared in application of these practices may not be challenged *ex post*, if:

- (a) the practices actually used comply with those approved by the Centre; and
- (b) the partner did not conceal any information for the purpose of the approval of its cost accounting practices.

## **ARTICLE II.21 – ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE PARTNER**

Where the Special Conditions or the Specific agreement contain a provision on entities affiliated to the partner, costs incurred by such an entity are eligible, provided that they satisfy the same conditions under Articles II.19 and II.20 as apply to the partner, and that the partner ensures that the conditions applicable to it under Articles II.5, II.6, II.8, II.10, II.11 and II.26 are also applicable to the entity.

## **ARTICLE II.22 – BUDGET TRANSFERS**

The partner is allowed to adjust the estimated budget set out in Annex II of the Specific agreement, by transfers between the different budget categories if the action is implemented as described in Annex I of the Specific agreement. This adjustment does not require an amendment of the Specific agreement as provided for in Article II.13.

However, the partner may not add costs relating to *subcontracts* not provided for in Annex I of the Specific agreement, unless such additional *subcontracts* are approved by the Centre in accordance with Article II.11.1(d).

The first two subparagraphs do not apply to amounts which, as provided for in Article 3.2 (a)(iii) or (c) of the Specific agreement, take the form of lump sums.

## **ARTICLE II.23 – PAYMENTS AND PAYMENT ARRANGEMENTS**

### **II.23.1 Pre-financing**

The pre-financing is intended to provide the partner with a float.

Without prejudice to Article II.23.6, where Article 4.1 of the Specific agreement provides for a pre-financing payment upon entry into force of the Specific agreement, the Centre shall pay to the partner within 30 days following that date or, where required by Article 4.1 of the Specific agreement, following receipt of the financial guarantee.

The request for pre-financing shall be accompanied by a progress report on implementation of the action (“technical report on progress”) and, where required, a 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 partner and acceptance by the Centre, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require the Centre to have recourse against the principal debtor (i.e. the partner); and
- (c) it provides that it remains in force until the pre-financing is cleared against interim payments or payment of the balance by the Centre and, in case the payment of the balance is made in the form of a debit note, three months after the debit note is notified to the partner. The Centre shall release the guarantee within the following month.

### **II.23.2 Further pre-financing payments**

Where, in accordance with Article 4.1 of the Specific agreement, the pre-financing shall be paid in several instalments and where Article 4.1 of the Specific agreement provides for a further pre-financing payment subject to having used all or part of the previous instalment, the partner may submit a request for a further pre-financing payment once the percentage of the previous instalment specified in Article 4.1 of the Specific agreement has been used.

Where, in accordance with Article 4.1 of the Specific agreement, the pre-financing shall be paid in several instalments and where Article 4.1 of the Specific agreement provides for a further pre-financing payment at the end of a reporting period, the partner shall submit a request

for a further pre-financing payment within 60 days following the end of each reporting period for which a new pre-financing payment is due.

Any request for further pre-financing shall be accompanied by a progress report on implementation of the action (“technical report on progress”), a statement on the amount of the previous pre-financing instalment used to cover costs of the action (“statement on the use of the previous pre-financing instalment”), drawn up in accordance with Annex V and, where required, a financial guarantee.

Without prejudice to Articles II.23.6 and II.23.7, on receipt of the supporting documents, the Centre shall pay to the partner the new pre-financing instalment within 60 days.

### **II.23.3 Interim payments**

Interim payments are intended to reimburse or cover the eligible costs incurred for the implementation of the action during the corresponding reporting periods.

The partner shall submit a request for an interim payment within 60 days following the end of each reporting period for which, in accordance with Article 4.1 of the Specific agreement, an interim payment is due.

This request shall be accompanied by the following documents:

- (a) an interim report (“interim technical report”) drawn up in accordance with Annex IV; the interim technical report must contain the information needed to justify the eligible costs declared or the contribution requested on the basis of unit costs and lump sums where the grant takes the form of the reimbursement of unit or lump sum costs or of a unit or lump sum contribution in accordance with Article 3.2 (a)(ii), (iii), (b) or (c) of the Specific agreement, as well as information on subcontracting as referred to in Article II.11.2(d);
- (b) an interim financial statement (“interim financial statement”); the interim financial statements must include a breakdown of the amounts claimed by the partner and its affiliated entities; it must be drawn up in accordance with the structure of the estimated budget set out in Annex II of the Specific agreement and with Annex V and detail the amounts for each of the forms of grant set out in Article 3 of the Specific agreement for the reporting period concerned;
- (c) a certificate on the financial statements and underlying accounts (“certificate on the financial statements”) where the following conditions are met:
  - (i) in case of a specific grant for an action, where such a certificate is required by Article 4.1 of the Specific agreement or where both the total contribution in the form of reimbursement of actual costs as referred to in Article 3.2 (a)(i) of the Specific agreement is at least EUR 750 000 and the partner requests a reimbursement in that form of at least EUR 325 000 (when adding all previous reimbursements in that form for which a certificate on the financial statements has not been submitted),
  - (ii) in case of a specific operating grant, where such a certificate is required by Article 4.1 of the Specific agreement or where the total contribution in the form of

reimbursement of actual costs as referred to in Article 3.2 (a)(i) of the Specific agreement is at least EUR 100 000.

This certificate shall be produced by an approved auditor or, in case of public bodies, by a competent and independent public officer and drawn up in accordance with Annex VII. It shall certify that the costs declared in the interim financial statement by the partner or its affiliated entities for the categories of costs reimbursed in accordance with Article 3.2 (a)(i) of the Specific agreement are real, accurately recorded and eligible in accordance with the Framework agreement and the Specific agreement; and

- (d) where required by Article 4.1 of the Specific agreement, an operational verification report (“operational verification report”), produced by an independent third party approved by the Centre and drawn up in accordance with Annex VIII.

This report shall state that the actual implementation of the action as described in the interim report complies with the conditions set out in the Framework agreement and the Specific agreement.

The partner shall certify that the information provided in the request for interim payment is full, reliable and true. It shall also certify that the costs incurred can be considered eligible in accordance with Framework agreement and the Specific agreement and that the request for payment is substantiated by adequate supporting documents that can be produced in the context of the checks or audits described in Article II.26.

Without prejudice to Articles II.24.6 and II.24.7, on receipt of the supporting documents 2, the Centre shall pay to the partner the amount due as interim payment within 60 days.

This amount shall be determined following approval of the request for interim payment and of the accompanying documents and in accordance with the fourth, fifth and sixth subparagraphs. Approval of the request for interim payment and of the accompanying documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information it contains.

Without prejudice to any ceiling set out in Article 4.1 of the Specific agreement and to Articles II.24.6 and II.24.7, the amount due as interim payment shall be determined as follows:

- (a) where, in accordance with Article 3.2 (a) of the Specific agreement, 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 action approved by the Centre for the concerned reporting period and the corresponding categories of costs, for the partner and its affiliated entities; if Article 4.1 of the Specific agreement specifies another reimbursement rate, this other rate shall be applied instead;
- (b) where, in accordance with Article 3.2 (b) of the Specific agreement, the grant takes the form of a unit contribution, the amount obtained by multiplying the unit contribution specified in that Article by the actual number of units approved by the Centre for the concerned reporting period for the partner and its affiliated entities;

- (c) where, in accordance with Article 3.2 (c) of the Specific agreement, the grant takes the form of a lump sum contribution, the lump sum specified in that Article for the partner and its affiliated entities, subject to approval by the Centre of the proper implementation during the concerned reporting period of the corresponding tasks or part of the action in accordance with Annex I of the Specific agreement;
- (d) where, in accordance with Article 3.2 (d) of the Specific agreement, the grant takes the form of a flat-rate contribution, the amount obtained by applying the flat rate referred to in that Article to the eligible costs or to the contribution accepted by the Centre for the concerned reporting period for the partner and its affiliated entities.

Where Article 3 of the Specific agreement provides for a combination of different forms of grant, these amounts shall be added.

Where Article 4.1 of the Specific agreement requires that the interim payment clears all or part of the pre-financing paid to the partner, the amount of pre-financing to be cleared shall be deducted from the amount due as interim payment, as determined in accordance with the fourth and fifth subparagraphs.

#### **II.23.4 Payment of the balance**

The payment of the balance, which may not be repeated, is intended to reimburse or cover after the end of the period set out in Article 2.2 of the Specific agreement the remaining part of the eligible costs incurred by the partner for its implementation. Where the total amount of earlier payments is greater than the final amount of the grant determined in accordance with Article II.24, the payment of the balance may take the form of a recovery as provided for by Article II.25.

Without prejudice to Articles II.23.6 and II.23.7, on receipt of the supporting documents, The partner shall submit a request for a payment of the balance within 60 days following the end of each reporting period for which, in accordance with Article 4.1 of the Specific agreement, a payment of the balance is due.

This request shall be accompanied by the following documents:

- (a) a final report on implementation of the action (“final technical report”), drawn up in accordance with Annex IV; the final technical report must contain the information needed to justify the eligible costs declared or the contribution requested on the basis of unit costs and lump sums where the grant takes the form of the reimbursement of unit or lump sum costs or of a unit or lump sum contribution in accordance with Article 3.2 (a)(ii), (iii), (b) or (c) of the Specific agreement, as well as information on subcontracting as referred to in Article II.11.2(d);
- (b) a final financial statement (“final financial statement”); the final financial statements must include a breakdown of the amounts claimed by the partner and its affiliated entities; it must be drawn up in accordance with the structure of the estimated budget set out in Annex II of the Specific agreement and with Annex V and detail the amounts for each of the forms of grant set out in Article 3 of the Specific agreement for the reporting period concerned;

- (c) a summary financial statement (“summary financial statement”); this statement must include a breakdown of the amounts declared or requested by the partner and its affiliated entities, aggregating the financial statements already submitted previously and indicating the receipts referred to in Article II.24.3 for the partner and its affiliated entities; it must be drawn up in accordance with Annex V;
- (d) a certificate on the financial statements and underlying accounts (“certificate on the financial statements”) where the following conditions are met:
  - (i) in case of a specific grant for an action, where such a certificate is required by Article 4.1 of the Specific agreement or where both the total contribution in the form of reimbursement of actual costs as referred to in Article 3.2 (a)(i) of the Specific agreement is at least EUR 750 000 and the partner requests a reimbursement in that form of at least EUR 325 000 (when adding all previous reimbursements in that form for which a certificate on the financial statements has not been submitted),
  - (ii) in case of a specific operating grant, where such a certificate is required by Article 4.1 of the Specific agreement or where the total contribution in the form of reimbursement of actual costs as referred to in Article 3.2 (a)(i) of the Specific agreement is at least EUR 100 000.

This certificate shall be produced by an approved auditor or, in case of public bodies, by a competent and independent public officer and drawn up in accordance with Annex VII. It shall certify that the costs declared in the interim or final financial statement by the partner or its affiliated entities for the categories of costs reimbursed in accordance with Article 3.2 (a)(i) of the Specific agreement are real, accurately recorded and eligible in accordance with the Framework agreement and the Specific agreement. In addition, for the payment of the balance, it shall certify that all the receipts referred to in Article II.24.3 have been declared; and

- (e) where required by Article 4.1 of the Specific agreement, an operational verification report (“operational verification report”), produced by an independent third party approved by the Centre and drawn up in accordance with Annex VIII.

This report shall state that the actual implementation of the action as described in the interim or final report complies with the conditions set out in the Framework agreement and the Specific agreement.

The partner shall certify that the information provided in the request for interim payment or for payment of the balance is full, reliable and true. It shall also certify that the costs incurred can be considered eligible in accordance with Framework agreement and the Specific agreement and that the request for payment is substantiated by adequate supporting documents that can be produced in the context of the checks or audits described in Article II.26. In addition, for the payment of the balance, it shall certify that all the receipts referred to in Article II.24.3 have been declared.

This amount shall be determined following approval of the request for payment of the balance and of the accompanying documents and in accordance with the fourth subparagraph. Approval

of the request for payment of the balance and of the accompanying documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information it contains.

The amount due as the balance shall be determined by deducting, from the final amount of the grant determined in accordance with Article II.24, the total amount of pre-financing and interim payments already made.

### **II.23.5 Non-compliance with the reporting obligations**

The Centre may terminate the Framework agreement or a Specific agreement as provided for in Article II.17.2.2(b) and may reduce the specific grant as provided for in Article II.24.4 if the partner:

- (a) did not submit a request for interim payment or payment of the balance accompanied by the supporting documents unless otherwise specified in the Specific agreement within 60 calendar days following the end of the corresponding reporting period; and
- (b) still fails to submit such a request within further 30 calendar days following a written reminder sent by the Centre.

### **II.23.6 Suspension of payments**

#### **II.23.6.1 Grounds for suspension**

The Centre may, at any time during the implementation of the Specific agreement, suspend, in whole or in part, the pre-financing payment(s), interim payment(s) or payment of the balance:

- (a) if the Centre has evidence that the partner has committed *substantial errors, irregularities* or *fraud* in the award procedure or while implementing the Framework agreement or a Specific agreement or if the partner fails to comply with its obligations under the Framework agreement or the Specific agreement;
- (b) if the Centre has evidence that the partner has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the partner under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on a specific grant awarded under the Framework agreement; or
- (c) if the Centre suspects *substantial errors, irregularities, fraud* or breach of obligations committed by the partner in the award procedure or while implementing the Framework agreement or the Specific agreement and needs to verify whether they have actually occurred.

#### **II.23.6.2 Procedure for suspension**

**Step 1** — Before suspending payments, the Centre must send a *formal notification* to the partner:

- (a) informing it of:
  - (i) its intention to suspend payments;

- (ii) the reasons for suspension;
- (iii) in the cases referred to in points (a) and (b) of Article II.23.6.1, the conditions that need to be met for payments to resume; and

(b) inviting it to submit observations within 30 calendar days of receiving the *formal notification*.

**Step 2** — If the Centre does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a *formal notification* to the partner informing it of:

- (a) the suspension of payments;
- (b) the reasons for suspension;
- (c) the final conditions under which payments may resume in the cases referred to in points (a) and (b) of Article II.23.6.1;
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.23.6.1.

The suspension takes effect on the day the Centre sends *formal notification* of suspension (Step 2).

Otherwise, the Centre must send a *formal notification* to the partner informing it that it is not continuing with the suspension procedure.

### **II.23.6.3 Effects of suspension**

During the period of suspension of payments the partner is not entitled to submit any requests for payments and supporting documents unless otherwise specified in the Specific agreement.

The corresponding requests for payments and supporting documents 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 4.1 of the Specific agreement.

The suspension of payments does not affect the right of the partner to suspend the implementation of the *action* as provided for in Article II.16.1 or to terminate the Framework agreement or the Specific agreement as provided for in Article II.17.1.2.

### **II.23.6.4 Resuming payments**

In order for the Centre to resume payments, the partner must meet the notified conditions as soon as possible and must inform the Centre of any progress made.

If the conditions for resuming payments are met, the suspension will be lifted. The Centre will send a *formal notification* to the partner informing it of this.

### **II.23.7 Suspension of the time limit for payments**



**II.23.7.1** The Centre may at any moment suspend the time limit for payment specified in Article 4.2 of the Specific agreement if a request for payment cannot be approved because:

- (a) it does not comply with the Specific agreement or the Framework agreement;
- (b) the appropriate supporting documents have not been produced; or
- (c) there is a doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

**II.23.7.2** The Centre must send a *formal notification* to the partner informing it of:

- (a) the suspension; and
- (b) the reasons for the suspension.

The suspension takes effect on the day the Centre sends the *formal notification*.

**II.23.7.3** 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 partner may request the Centre if the suspension will continue.

If the payment deadline has been suspended because the technical reports or financial statements do not comply with the Specific agreement or the Framework agreement and the revised report or statement is not submitted or was submitted but is also rejected, the Centre may terminate the Specific agreement and the Framework agreement as provided for in Article II.17.2.2(b) and reduce the grant as provided for in Article II.24.4.

## **II.23.8 Notification of amounts due**

The Centre shall formally notify the amounts due, specifying whether it is a further pre-financing payment, an interim 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.24.

## **II.23.9 Interest on late payment**

On expiry of the time limits for payment specified in Article 4.2 of the Specific agreement and in Articles II.23.1, II.23.2, II.23.3 and II.23.4 and without prejudice to Articles II.23.6 and II.23.7, the partner is entitled to interest on late payment at 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*.

The first subparagraph shall not apply where the partner is a Member State of the Union, including regional and local government authorities and other public bodies acting in the name and on behalf of the Member State.

The suspension of the time limit for payment in accordance with Article II.23.6 or of payment by the Centre in accordance with Article II.23.7 may not be considered as late payment.

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.23.11. The interest payable shall not be considered for the purposes of determining the final amount of grant within the meaning of Article II.24.

By way of derogation from the first subparagraph, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the partner only upon request submitted within two months of receiving late payment.

## **II.23.10 Currency**

### **II.23.10.1 Currency for requests for payment and financial statements and conversion into euro**

Requests for payment and financial statements shall be drafted in euro.

Where the partner 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 the following 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.

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

### **II.23.10.2 Currency for payments**

Payments by the Centre shall be made in euro.

## **II.23.11 Date of payment**

Payments by the Centre shall be deemed to be effected on the date when they are debited to the Centre's account.

## **II.23.12 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 Centre shall be borne by the Centre;
- (b) costs of transfer charged by the bank of the partner shall be borne by the partner;

- (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.

## **ARTICLE II.24 – CALCULATION OF THE FINAL AMOUNT OF A SPECIFIC GRANT**

The final amount of the specific grant depends on the extent to which the *action* has been implemented in accordance with the terms of the Specific agreement and the Framework agreement.

The final amount of the grant is calculated by the Centre at the time of the payment of the balance. The calculation involves the following steps:

Step 1 — Application of the reimbursement rate to the eligible costs and addition of the unit, flat-rate and lump sum contributions

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

Step 3 — Reduction due to the no-profit rule

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

### **II.24.1 Step 1 — Application of the reimbursement rate to the eligible costs and addition of the unit, flat-rate and lump sum contributions**

This step is applied as follows:

- (a) If, as provided for in Article 3.2 (a) of the Specific agreement, the grant takes the form of the reimbursement of eligible costs, the reimbursement rate specified in that Article is applied to the eligible costs of the *action* approved by the Centre for the corresponding categories of costs, for the partner and its affiliated entities;
- (b) If, as provided for in Article 3.2 (b) of the Specific agreement, the grant takes the form of a unit contribution, the unit contribution specified in that Article is multiplied by the actual number of units approved by the Centre for the partner and its affiliated entities;
- (c) If, as provided for in Article 3.2 (c) of the Specific agreement, the grant takes the form of a lump sum contribution, the Centre applies the lump sum specified in that Article for the partner and its affiliated entities if it finds that the corresponding tasks or part of the *action* were implemented properly in accordance with Annex I of the Specific agreement;
- (d) If, as provided for in Article 3.2 (d) of the Specific agreement, the grant takes the form of a flat-rate contribution, the flat rate referred to in that Article is applied to the eligible costs or to the contribution approved by the Centre for the partner and its affiliated entities.

If Article 3.2 of the Specific agreement provides for a combination of different forms of grant, the amounts obtained must be added together.

#### **II.24.2 Step 2 — Limit to *maximum amount of the grant***

The total amount paid to the partner by the Centre may in no circumstances exceed the *maximum amount of the grant*.

If the amount obtained following Step 1 is higher than this maximum amount, the final amount of the grant is limited to the latter.

If volunteers' work is declared as part of direct eligible costs, the final amount of the grant is limited to the amount of total eligible costs and contributions approved by the Centre minus the amount of volunteers' work approved by the Centre.

#### **II.24.3 Step 3 — Reduction due to the no-profit rule**

The grant may not produce a profit for the partner, unless specified otherwise in the Special Conditions or in the Specific agreement.

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

The total eligible costs of the *action* are the consolidated total eligible costs approved by the Centre for the categories of costs reimbursed in accordance with Article 3.2 (a) of the Specific agreement.

The total receipts of the *action* are the consolidated total receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the partner.

The following are considered receipts:

- (a) income generated by the *action*;
- (b) financial contributions given by third parties to the partner or to an affiliated entity, if they are specifically assigned by the third parties to the financing of the eligible costs of the *action* reimbursed by the Centre in accordance with Article 3.2 (a)(i) of the Specific agreement.

The following are not considered receipts:

- (a) financial contributions by third parties, if they may be used to cover costs other than the eligible costs under the Specific agreement;
- (b) financial contributions by third parties with no obligation to repay any amount unused at the end of the *implementation period*;
- (c) in case of an operating grant, amounts dedicated to the building up of reserves.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the *action* approved by the Centre for the categories of costs referred to

in Article 3.2 (a)(i) of the Specific agreement. This deduction will be applied on the amount calculated following Steps 1 and 2.

#### **II.24.4 Step 4 — Reduction due to improper implementation or breach of other obligations**

The Centre may reduce the *maximum amount of the grant* if the *action* has not been implemented properly as described in Annex I of the Specific agreement (i.e. if it has not been implemented or has been implemented poorly, partially or late), or if another obligation under the Framework agreement or the Specific agreement has been breached.

The amount of the reduction will be proportionate to the degree to which the *action* has been implemented improperly or to the seriousness of the breach.

Before the Centre reduces the grant, it must send a *formal notification* to the partner:

- (a) informing it of:
  - (i) its intention to reduce the *maximum amount of the grant*;
  - (ii) the amount by which it intends to reduce the grant;
  - (iii) the reasons for reduction; and
- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

If the Centre does not receive any observations or decides to pursue reduction despite the observations it has received, it will send a *formal notification* informing the partner of its decision.

If the grant is reduced, the Centre must calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the *action* or to the seriousness of the breach of obligations) from the *maximum amount of the grant*.

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

- (a) the amount obtained following Steps 1 to 3; or
- (b) the reduced grant amount following Step 4.

### **ARTICLE II.25 – RECOVERY**

#### **II.25.1 Financial responsibility**

Where an amount is to be recovered under the terms of the Framework agreement and any Specific agreement, the partner shall repay the Centre the amount in question. The partner shall be responsible for the repayment of any amount unduly paid by the Centre as a contribution towards the costs incurred by its affiliated entities.

## II.25.2 Recovery procedure

Before recovery, the Centre shall send a *formal notification* to the partner

- (a) informing it of its intention to recover the amount unduly paid;
- (b) specifying the amount due and the reasons for recovery; and
- (c) inviting the partner to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the partner, the Centre decides to pursue the recovery procedure, the Centre may confirm recovery by formally notifying to the partner a debit note (“debit note”), specifying the terms and the date for payment.

If payment has not been made by the date specified in the debit note, the Centre shall recover the amount due:

- (a) by offsetting it against any amounts owed to the partner by the Centre (“offsetting”); in exceptional circumstances, justified by the necessity to safeguard the financial interests of the Union, the Centre may recover by offsetting before the due date; the partner’s prior consent shall not be required; an action may be brought against such offsetting before the General Court of the European Union pursuant to Article 263 TFEU;
- (b) by drawing on the financial guarantee where provided for in accordance with Article 4.1 of the Specific agreement (“drawing on the financial guarantee”);
- (c) by taking legal action in accordance with Article II.18.2 or with the Special Conditions or by adopting an enforceable decision in accordance with Article II.18.3.

## II.25.3 Interest on late payment

If payment is not made by the date in the debit note, the amount to be recovered will be increased by late payment interest at the rate set out in Article II.23.9 from the day following the date for payment in the debit note, up to and including the date the Commission receives full payment of the amount.

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

## II.25.4 Bank charges

Bank charges incurred in connection with the recovery of the sums owed to the Centre shall be borne by the partner 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.26 – CHECKS, AUDITS AND EVALUATION

### II.26.1 Technical and financial checks or audits and interim and final evaluations

The Centre may, during the implementation of the *action* or afterwards, carry out technical and financial checks and audits to determine that the partner is implementing the *action* properly and is complying with the obligations under the Specific agreement or the Framework agreement. It may also check the statutory records of the partner for the purpose of periodic assessments of lump sum, unit cost or flat-rate amounts.

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

In addition, the Centre may carry out interim or final evaluation of the impact of the action measured against the objective of the Centre concerned.

Centre's checks, audits or evaluations may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks, audits or evaluations may be initiated during the implementation of the Specific agreement and for a period of five years starting from the date of payment of the balance for the action concerned. This period shall be limited to three years if the maximum amount of the grant is not more than EUR 60 000.

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

If the audit is carried out on an affiliated entity, the partner must inform that affiliated entity.

### II.26.2 Duty to keep documents

The partner shall keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by its national law and under the conditions laid down therein, for a period of five years starting from the date of payment of the balance for the action concerned.

This period shall be limited to three years if the maximum amount of the grant is not more than EUR 60 000.

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, including in the case referred to in Article II.26.7. In such cases, the partner shall keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

### **II.26.3 Obligation to provide information**

The partner shall provide any information, including information in electronic format, requested by the Centre, or by any other outside body authorised by it, in the context of checks, audits or evaluations as referred to in Article II.26.1.

In case the partner does not comply with the obligation set out in the first subparagraph, the Centre may consider:

- (a) any cost insufficiently substantiated by information provided by the partner as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the partner as undue.

### **II.26.4 On-the-spot visits**

During an on-the-spot visit, the partner shall allow Centre staff and outside personnel authorised by the Centre to have access to the sites and premises where the action concerned is or was carried out, and to all the necessary information, including information in electronic format.

The partner shall ensure that the information is readily available at the moment of the on-the-spot visit and that information requested is handed over in an appropriate form.

In case the partner refuses to provide access to the sites, premises and information in accordance with the first and second subparagraphs, the Centre may consider:

- (a) any cost insufficiently substantiated by information provided by the partner as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the partner as undue.

### **II.26.5 Contradictory audit procedure**

On the basis of the findings made during the audit, a provisional report (“draft audit report”) shall be drawn up. It shall be sent by the Centre or its authorised representative to the partner, which shall have 30 days from the date of receipt to submit observations. The final report (“final audit report”) shall be sent to the partner within 60 days of expiry of the time limit for submission of observations.

### **II.26.6 Effects of audit findings**

On the basis of the final audit findings, the Centre may take the measures which it considers necessary, including recovery of all or part of the payments made by it under the Specific agreement concerned, in accordance with Article II.25.

In the case of final audit findings made after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final amount of the specific grant, determined in accordance with Article II.24, and the total amount paid to the partner under the Specific agreement for the implementation of the action.



## **II.26.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations**

**II.26.7.1** The Centre may extend audit findings from other grants to a specific grant awarded under the Framework agreement if:

- (a) the partner is found to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations in other EU or Euratom grants awarded under similar conditions and such errors, irregularities, fraud or breach have a material impact on a specific grant awarded under the Framework agreement; and
- (b) the final audit findings are sent to the partner through a formal notification, together with the list of grants affected by the findings within the period referred to in Article II.26.1.

The extension of findings may lead to:

- (a) the rejection of costs as ineligible;
- (b) reduction of the grant as provided for in Article II.24.4;
- (c) recovery of undue amounts as provided for in Article II.25;
- (d) suspension of payments as provided for in Article II.23.6;
- (e) suspension of the action implementation as provided for in Article II.16.2;
- (f) termination as provided for in Article II.17.2.

**II.26.7.2** The Centre shall send a formal notification to the partner informing it of the systemic or recurrent errors and of its intention to extend the audit findings, together with the list of grants affected.

- (a) If the findings concern eligibility of costs the procedure is as follows:

Step 1 — The formal notification must include:

- (i) an invitation to submit observations on the list of grants affected by the findings;
- (ii) a request to submit revised financial statements for all grants affected;
- (iii) where possible, the correction rate for extrapolation established by the Centre to calculate the amounts to be rejected on the basis of the systemic or recurrent errors, irregularities, fraud or breach of obligations, if the partner:
  - considers that the submission of revised financial statements is not possible or practicable; or
  - will not submit revised financial statements.

Step 2 — The partner has 60 calendar days from when it receives the formal notification to submit observations and revised financial statements or to propose a duly substantiated alternative correction method. This period may be extended by the Centre in justified cases.

Step 3 — If the partner submits revised financial statements that take account of the findings the Centre will determine the amount to be corrected on the basis of those revised statements. If the partner proposes an alternative correction method and the Centre accepts it, the Centre shall send a formal notification to the partner informing it:

- (i) that it accepts the alternative method;
- (ii) of the revised eligible costs determined by applying this method.

Otherwise the Centre shall send a formal notification to the partner informing it:

- (i) that it does not accept the observations or the alternative method proposed;
- (ii) of the revised eligible costs determined by applying the extrapolation method initially notified to the partner.

If the systemic or recurrent errors, irregularities, fraud or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant, determined in accordance with Article II.24 on the basis of the revised eligible costs declared by the partner and approved by the Centre or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the partner under the Specific agreement for the implementation of the action;

- (b) If the findings concern improper implementation or a breach of another obligation the procedure is as follows:

Step 1 — The formal notification must include:

- (i) an invitation to the partner to submit observations on the list of grants affected by the findings and
- (ii) the correction flat rate the Centre intends to apply to the maximum amount of the grant or to part of it, according to the principle of proportionality.

Step 2 — The partner has 60 calendar days from receiving the formal notification to submit observations or to propose a duly substantiated alternative flat-rate.

Step 3 — If the Centre accepts the alternative flat rate proposed by the partner, it shall send a formal notification to the partner informing it:

- (i) that it accepts the alternative flat-rate;
- (ii) of the corrected grant amount by applying this flat rate.

Otherwise the Centre shall send a formal notification to the partner informing it:

- (i) that it does not accept the observations or the alternative flat rate proposed;
- (ii) of the corrected grant amount by applying the flat rate initially notified to the partner.

If the systemic or recurrent errors, irregularities, fraud or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant after flat-rate correction; and
- (ii) the total amount paid to the partner under the Specific agreement for the implementation of the action.

## **II.26.8 Rights of OLAF**

The European Anti-Fraud Office (OLAF) has the same rights as the Centre, particularly the right of access, for the purpose of checks and investigations.

Under Council Regulation (Euratom, EC) No 2185/96<sup>2</sup> and Regulation (EU, Euratom) No 883/2013<sup>3</sup> OLAF may also carry out on the spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities.

Where appropriate, OLAF findings may lead to the Centre recovering amounts from the partner.

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

## **II.26.9 Rights of the European Court of Auditors and EPPO**

The European Court of Auditors and the European Public Prosecutor's Office established by Council Regulation (EU) 2017/1939 ('the EPPO') have the same rights as the Centre, particularly the right of access, for the purpose of checks, audits and investigations.

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<sup>2</sup> 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.

<sup>3</sup> 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).