EUROPEAN COMMISSION
Executive Agency for Small and Medium-sized Enterprises

Unit B3 LIFE and CIP Eco-Innovation

GRANT AGREEMENT[1]

PROJECT NUMBER – LIFE15 NAT/IT/000989

LifeTicinoBiosource

The **European Union** (hereinafter referred to as "the Union"), represented by the Executive Agency for Small and Medium-sized Enterprises (hereinafter referred to as "the Agency", also referred to as "Contracting Authority") and acting under the powers delegated by the European Commission (hereinafter referred to as 'the European Commission'), represented for the purposes of signature of this Agreement by Mr. Angelo Salsi, Head of Unit.

on the one part,

and

1. **Parco Lombardo della Valle del Ticino - (TicinoPark)**

Public Body

Via Isonzo 1, 20013 Pontevecchio di Magenta, Italy,

hereinafter referred to as "the coordinating beneficiary", represented for the purposes of signature of this Agreement by President, Gian Pietro Beltrami

[1] Within the framework of the Regulation (EC) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007, OJ L 347 of 20/12/2013, p.185 (hereinafter "the LIFE Regulation") and the Commission Implementing Decision of 19 March 2014 on the adoption of the LIFE multiannual work programme for 2014-17, OJ L116 of 17/04/2014, p. 1.

and the following other associated beneficiaries:

2. **Fondazione Lombardia per l'Ambiente (FLA)**- established in Italy

3. **G.R.A.I.A. srl - Gestione e Ricerca Ambientale Ittica Acque (GRAIA)**- established in Italy

duly represented by the coordinating beneficiary or by virtue of the mandates included in Annex II forms A4 for the signature of this Agreement,

hereinafter referred to collectively as "the beneficiaries", and individually as "beneficiary" for the purposes of this Agreement where a provision applies without distinction between the coordinating or associated beneficiaries,

on the other part,

HAVE AGREED

to the Special Conditions (hereinafter referred to as "the Special Conditions") and the following Annexes:

Annex I	General Conditions (hereinafter referred to as "the General Conditions")
Annex II	Description of the project
Annex III	Estimated budget of the action: Annex II, Forms R1, R2, and all F-Forms
Annex IV	Mandatess provided to the coordinating beneficiary by the other beneficiaries: Annex II, Form[s] A4
Annex V	Model technical report: The applicable model technical reports are to be found on the website http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm
Annex VI	Model financial statement: The applicable model financial reports are to be found on the website http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm
Annex VII	Model terms of reference for the certificate on the financial statements to be found on the website http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm
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

Annex X Financial and Administrative guidelines
http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm

Annex XI Guidelines for applicants
http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm

which form an integral part of this Agreement, hereinafter referred to as "the Agreement".

The terms set out in the Special Conditions shall take precedence over those set out in the Annexes.

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

SPECIAL CONDITIONS

ARTICLE I.1 – SUBJECT MATTER OF THE AGREEMENT

The Agency has decided to award a grant, under the terms and conditions set out in the Special Conditions, the General Conditions and the other Annexes to the Agreement, for the project entitled **Enhancing Biodiversity by Restoring Source Areas for Priority and Other Species of Community Interest in Ticino Park** ("the project") as described in Annex II.

With the signature of the Agreement, the beneficiaries accept the grant and agree to implement the project, acting on their own responsibility.

ARTICLE I.2 – ENTRY INTO FORCE OF THE AGREEMENT AND DURATION OF THE PROJECT

I.2.1 The Agreement shall enter into force on the date on which the last party signs.

I.2.2 The project shall run from **01/10/2016** ("the starting date") until **31/10/2020**.

ARTICLE I.3 - MAXIMUM AMOUNT AND FORM OF THE GRANT

The grant, also referred to as the Union contribution, shall be of a **maximum amount of EUR 2,326,000** and shall take the form of:

(a) The reimbursement of 59.99% of the eligible costs of the project ("reimbursement of eligible costs"), which are estimated at EUR 3,877,000 and which are:

(i) actually incurred ("reimbursement of actual costs") for the following categories of costs for each of the beneficiaries: direct personnel costs; travel and subsistence costs; costs for subcontracting (also referred to as "external assistance costs"); cost of durable goods: (depreciation) costs of infrastructure and equipment, prototype costs; costs for land purchase/long-term lease of land/one-off compensations for land use rights; costs of consumables; other costs;

(ii) reimbursement of unit costs: not applicable

(iii) reimbursement of lump sum costs: not applicable

(iv) declared on the basis of a flat-rate: overheads as specified in Annex III as a fixed percentage of the eligible direct costs excluding costs of land purchase/long-term lease of land/one-off compensations for land use rights.

(v) reimbursement of costs declared on the basis of the beneficiary's usual cost accounting practices: not applicable

(b) *unit contribution: not applicable*

(c) *lump sum contribution: not applicable*

(d) *flat-rate contribution: not applicable*

ARTICLE I.4 – ADDITIONAL PROVISIONS ON REPORTING, PAYMENTS AND PAYMENT ARRANGEMENTS

I.4.1 Reporting periods, payments

In addition to the provisions set out in Articles II.23 and II.24, the following payment arrangements shall apply:

First pre-financing payment

- *Upon entry into force of the Agreement, a pre-financing payment of EUR 697,800 equivalent to 30% of the Union contribution specified in Article I.3 shall be paid to the coordinating beneficiary;*

Further pre-financing payment

- *A second pre-financing payment of EUR 930,400 equivalent to 40% of the Union contribution specified in Article I.3 shall be paid to the coordinating beneficiary, subject to having used at least 100% of the previous pre-financing instalment paid;*

Payment of the balance

- The balance shall be paid to the coordinating beneficiary subject *to the receipt of a certificate on the financial statements and underlying accounts ("certificate on the financial statements") for the project in accordance with Article II.23.2(d).*

In case the maximum contribution referred to in Article I.3 is greater than EUR 5 000 000:
In addition to the reporting requirements set out in Article II.23 the coordinating beneficiary shall inform the Agency by 30 November each year about the cumulative expenditure incurred by the beneficiaries from the starting date set out in Article I.2.2. This information is required for the Agency's accounting purposes and may not be used for determining the final Union contribution.

I.4.2 Time limit for payments

The time limit for the Agency to make the first pre-financing payment is 30 days, the payment for further pre-financing payments is 60 days and the payment of the balance is 90 days.

I.4.3 Language of requests for payments, technical reports and financial statements

All requests for payments, technical reports and financial statements shall be submitted in English, with the exception of the technical annexes and supporting documents, which may be provided in any official language of the European Union.

ARTICLE I.5 – BANK ACCOUNT FOR PAYMENTS

All payments shall be made to the coordinator's bank account as indicated below:

Name of bank: Credito Valtellinese
Address of branch: Via Alcide de Gasperi 6, Magenta 20013, Italy
Precise denomination of the account holder: Parco Lombardo della Valle del Ticino
Full account number (including bank codes): IT8 5O05 2163 3320 0000 0000 0328
IBAN code: IT8 5O05 2163 3320 0000 0000 0328

ARTICLE I.6 - DATA CONTROLLER AND COMMUNICATION DETAILS OF THE PARTIES

I.6.1 Data controller

The entity acting as a data controller according to Article II.6 shall be: Unit B.3 LIFE and CIP Eco-Innovation.

I.6.2 Communication details of the Agency

Any communication addressed to the Agency shall bear the identification number and project title and *shall be sent to the following address:*

Ordinary or registered mail by postal service:
European Commission
EASME
Unit B.3 LIFE and CIP Eco-Innovation
B-1049 Brussels

Express delivery service or hand-delivery against signature:
European Commission
EASME
Unit B.3 LIFE and CIP Eco-Innovation
Mail Service
Avenue du Bourget 1
B-1140 Brussels

E-mails:
E-mail address: EASME-LIFE-ENQUIRIES@ec.europa.eu

I.6.3 Communication details of the coordinating beneficiary

Any communication from the Agency to the beneficiaries shall be sent to the following address:

Fulvio Caronni
Forest Department Manager
Parco Lombardo della Valle del Ticino
Via Isonzo 1, 20013 Pontevecchio di Magenta, Italy
E-mail address: fulvio.caronni@parcoticino.it

ARTICLE I.7 - ENTITIES AFFILIATED TO THE BENEFICIARIES

Not Applicable

ARTICLE I.8 - BENEFICIARIES WHICH ARE INTERNATIONAL ORGANISATIONS

Not Applicable

ARTICLE I.9 - AUDITS

By derogation of Article II.27.3 of the general conditions, notwithstanding whether the checks, audits or evaluations are initiated before or after the payment of the balance, the coordinating beneficiary may be required to collect the information concerning the associated beneficiaries.

When requested by the Agency or other outside body authorised by it, the coordinating beneficiary shall provide without delay the information mentioned above, which includes that of the concerned associated beneficiaries. In this case, the coordinating beneficiary shall bear responsibility for obtaining and verifying this information before passing it on to the Agency, as foreseen in Article II.1.3(b)(ii).

In this case, the contradictory audit procedure foreseen in Article II.27.5 shall be conducted with the coordinating beneficiary, who will be requested to submit the observations of the associated beneficiaries concerned by the check, audit or evaluation.

This is without prejudice to the right of the Agency or other outside body authorised by it to perform audits either on one or several associated beneficiaries. In this case the associated beneficiaries shall provide the information directly.

ARTICLE I.10 – SUBMISSION OF REPORTS

By derogation to Article II.23, the technical reports, including annexes, shall only be submitted in electronic format, both to the Agency and to the external monitoring team.

The financial reports shall be submitted, in both paper and electronic formats, as specified in Article II.23

SIGNATURES

For the coordinating beneficiary
President, Gian Pietro Beltrami

For the Agency
Head of Unit, Angelo Salsi

Done at Pontevecchio di Magenta, on 04/07/2016

Done at Brussels, on 19/6/2016

In duplicate in English

ANNEX I

GENERAL CONDITIONS

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PART A – LEGAL AND ADMINISTRATIVE PROVISIONS

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

II.1.1 General obligations and role of the beneficiaries

The beneficiaries shall:

(a) be jointly and severally responsible for carrying out the project in accordance with the terms and conditions of the Agreement;

(b) be responsible for complying with any legal obligations incumbent on them jointly or individually;

(c) make appropriate internal arrangements for the proper implementation of the project, consistent with the provisions of this Agreement; where provided for in the Special Conditions, those arrangements shall take the form of an internal co-operation agreement between the beneficiaries;

(d) maintain up-to-date books of account, in accordance with the usual accounting conventions imposed on them by law and existing regulations;

(e) ensure that all invoices include a clear reference to the project;

(f) not act, in the context of the project, as sub-contractor or supplier to any other beneficiary;

(g) contribute financially to the project;

II.1.2 General obligations and role of each associated beneficiary

Each associated beneficiary shall:

(a) inform the coordinating beneficiary immediately of any change likely to affect or delay the implementation of the project of which the beneficiary is aware, and, for LIFE Nature and Biodiversity projects, of any activity by third parties that is likely to have a significant negative impact on the sites/species targeted in the project, and if appropriate to take measures to persuade third parties to refrain from such activities;

(b) inform the coordinating beneficiary immediately of any change in its legal, financial, technical, organisational or ownership situation or of its affiliated entities and of any change in its name, address or legal representative or of its affiliated entities;

(c) submit in due time to the coordinating beneficiary:

  (i) the data needed to draw up the reports, financial statements and other documents provided for in the Agreement;
  (ii) all the necessary documents in the event of audits, checks or evaluation in accordance with Article II.27;

(iii) any other information to be provided to the Agency according to the Agreement, except where the Agreement requires that such information is submitted directly by the beneficiary to the Agency.

II.1.3 General obligations and role of the coordinating beneficiary

The coordinating beneficiary shall:

(a) monitor that the project is implemented in accordance with the Agreement;

(b) be the intermediary for all communications between the beneficiaries and the Agency, except where provided otherwise in the Agreement, and, in particular, the coordinating beneficiary shall:

(i) immediately provide the Agency with the information related to any change in the name, address, legal representative as well as in the legal, financial, technical, organisational or ownership situation of any of the beneficiaries or of its affiliated entities, or to any event likely to affect or delay the implementation of the project, of which the coordinating beneficiary is aware, and, for LIFE Nature and Biodiversity projects, of any activity by third parties that is likely to have a significant negative impact on the sites/species targeted in the project, and if appropriate to take measures to persuade third parties to refrain from such activities;

(ii) bear responsibility for supplying all documents and information to the Agency which may be required under the Agreement, except where provided otherwise in the Agreement; where information is required from the other beneficiaries, the coordinating beneficiary shall bear responsibility for obtaining and verifying this information before passing it on to the Agency;

(c) make the appropriate arrangements for providing any financial guarantees required under the Agreement;

(d) establish the requests for payment in accordance with the Agreement;

(e) ensure that all the appropriate payments are made to the other beneficiaries within 30 days of the receipt of the funds paid by the Agency unless there is a justified delay. The coordinating beneficiary shall inform the Agency of the distribution of the Union contribution;

(f) bear responsibility for providing all the necessary documents in the event of checks and audits initiated before the payment of the balance, and in the event of evaluation in accordance with Article II.27 as well as for retaining copies of all supporting documents of all the associated beneficiaries for at least five years after the balance payment.

The coordinating beneficiary shall not subcontract any part of its tasks described in points (a) to (f) above to the other beneficiaries or to any other party.

The coordinating beneficiary shall conclude with all associated beneficiaries agreements describing their technical and financial participation in the project. Such agreements shall be fully compatible with the grant agreement signed with the Agency, shall make a precise reference to the present General Conditions and shall have, as a minimum, the contents described in the Guidelines issued by the Agency. The provisions of the grant agreement, including the mandates set out in its Annex II, Form A4, shall take precedence over any other agreement between the associated beneficiary and the coordinating beneficiary that may have an effect on the implementation of the grant agreement.

II.1.4 The role of the external monitoring team

To follow up the project, the Agency designates an external monitoring team (hereinafter "the external monitoring team") to assist it by following and assessing the projects progress and their coherence with the actual costs incurred.

The external monitoring team shall not be authorised to take any decision on behalf of the Agency. A recommendation or a statement provided by the external monitoring team to the beneficiaries cannot be interpreted as representing a position of the Agency.

ARTICLE II.2 – COMMUNICATIONS BETWEEN THE PARTIES

II.2.1 Form and means of communications

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

Before communicating directly with the Agency, the coordinating beneficiary shall consult the external monitoring team. Any correspondence relating to the Agreement or to its implementation sent by the coordinating beneficiary to the Agency shall be sent in parallel to the external monitoring team.

Electronic communications shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

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

II.2.2 Date of communications

Any communication is deemed to have been made when it is received by the receiving party, and, in the case of communication to the Agency, the external monitoring team, unless the agreement refers to the date when the communication was sent.

Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in Article I.6 and Article II.2.1 has been observed. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in Article I.6. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.

Mail sent to the Agency using the postal services is considered to have been received by the Agency on the date on which it is registered by the department identified in Article I.6.2 or on the date on which it is received by the external monitoring team, whichever of these dates is later.

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

ARTICLE II.3 – LIABILITY FOR DAMAGES

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

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

ARTICLE II.4 - CONFLICT OF INTERESTS

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

II.4.2 Any situation constituting or likely to lead to a conflict of interests during the implementation of the Agreement shall be notified to the Agency, in writing, without delay. The beneficiaries shall immediately take all the necessary steps to rectify this situation. The Agency reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.

ARTICLE II.5 – CONFIDENTIALITY

II.5.1 The Agency and the beneficiaries shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the

implementation of the Agreement and which are explicitly indicated in writing as confidential.

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

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

(a) the party concerned agrees to release the other party from the confidentiality obligations earlier;

(b) the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the party bound by that obligation;

(c) the disclosure of the confidential information is required by law.

II.5.4 The external monitoring team shall act under the same confidentiality rules as those stipulated for the beneficiaries and the Agency.

ARTICLE II.6 – PROCESSING OF PERSONAL DATA

II.6.1 Processing of personal data by the Agency

Any personal data included in the Agreement shall be processed by the Agency pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

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

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

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

II.6.2 Processing of personal data by the beneficiaries

Where the Agreement requires the processing of personal data by the beneficiaries, the beneficiaries may act only under the supervision of the data controller identified in Article

I.6.1, in particular with regard to the purpose of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his or her rights.

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

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

(a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:

  (i) unauthorised reading, copying, alteration or removal of storage media;

  (ii) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;

  (iii) unauthorised persons from using data-processing systems by means of data transmission facilities;

(b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;

(c) record which personal data have been communicated, when and to whom;

(d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the Agency;

(e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;

(f) design their organisational structure in such a way that it meets data protection requirements.

ARTICLE II.7 – VISIBILITY OF UNION FUNDING

II.7.1 Information on Union funding and use of the LIFE Programme logo

(a) Unless the Agency requests or agrees otherwise, any communication or publication related to the project, made by the beneficiaries jointly or individually, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, websites, noticeboards, etc.), shall indicate that the project has received funding from the Union and shall display the *LIFE Programme logo* (Annex II to the LIFE Regulation, http://ec.europa.eu/environment/life/toolkit/comtools/resources/logos.htm). For audio-visual material, the credits at the beginning and/or at the end shall include an explicit

audible and readable mention to the LIFE financial support (e.g. "With the contribution of the LIFE Programme of the European Union").

All durable goods acquired in the framework of the project shall bear the LIFE logo unless otherwise specified by the Agency.

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

The obligation to display the LIFE Programme logo does not confer to the beneficiaries a right of exclusive use. The beneficiaries shall not appropriate the LIFE Programme logo or any similar trademark or logo, either by registration or by any other means. The LIFE logo may not be referred to as a certified quality label or eco-label. Its use shall be restricted to dissemination activities.

For projects in Natura 2000 sites or contributing to the integrity of the Natura 2000 network, the obligations regarding the LIFE Programme logo also apply for the Natura 2000 logo (http://ec.europa.eu/environment/life/toolkit/comtools/resources/logos.htm). The project's importance in terms of establishing the Natura 2000 network must be described in the notice boards and on the websites.

(b) The coordinating beneficiary shall create a *project website* or use an existing website in at least one official language of the European Union for the dissemination of project activities, progress and results. The web address where the main results of the project are available to the public shall be indicated in the reports. This website shall be online at the latest six months after the starting date as specified in Article I.2.2, shall be regularly updated and shall be kept for at least five years after the end of the project. A summary of the project in English language, including name and contact information of the coordinating beneficiary, will be placed on the LIFE website and made available to the general public.

(c) The beneficiaries shall erect and maintain *notice boards* describing the project at the locations where it is implemented, at strategic places accessible and visible to the public.

II.7.2 Disclaimers excluding Agency responsibility

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

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

II.8.1 Ownership of the results by the beneficiaries and exploitation of results

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

With a view to promoting the use of techniques or models favourable to the environment, the beneficiaries shall ensure that all documents, patents and know-how directly resulting from the project implementation shall be made available throughout the Union as soon as they are available, on non-discriminatory and reasonable commercial conditions. The beneficiaries shall comply with this obligation for a period of five years after the final payment.

Should the coordinating beneficiary, for no legitimate reason, refuse to give access to these products or to grant licences under these conditions, the Agency reserves the right to apply the rules in Article II.16 or, if the project has ended, to demand full or partial repayment of the Union contribution.

II.8.2 Pre-existing industrial and intellectual property rights

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

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

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

Without prejudice to Articles II.1.1, II.3, II.5 and II.8.1, the beneficiaries grant the Union the right to use the results of the project for the following purposes:

(a) use for its own purposes, and in particular, making available to persons working for the Agency, the Commission, 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 completely or partially, and in particular, publication in hard copies and in electronic or digital format, publication on the internet, including on the Europa website, as a downloadable or non-downloadable file, including photographs as illustration,, broadcasting by any kind of technique of transmission including dubbed, if necessary, public display or presentation, communication through press information services, inclusion in widely accessible databases, indexes or publications;

(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 Agency;

(g) rights to authorise or sub-licence the modes of exploitation set out in points (b) and (c) to third parties.

Additional rights of use for the Union may be provided for in the Special Conditions.

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

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

The Agency undertakes to credit the results of the projects by indicating the grant agreement reference number.

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

II.9.1 Where the implementation of the project requires the procurement of goods, works or services, the beneficiaries shall award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, they shall avoid any conflict of interests. Tendering procedures shall comply with the principles of transparency and equal treatment of potential contractors. For all contracts, the beneficiaries must maintain a written record of the procedure used to ensure that these conditions are fulfilled in the tendering procedure.

Beneficiaries acting in their capacity of contracting authorities within the meaning of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public work contracts, public supply contracts and public service contracts or contracting entities within the meaning of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors shall abide by the applicable national public procurement rules.

Where the value of a contract exceeds EUR 130,000, all beneficiaries shall use an open tendering procedure, including a publication of the call for tender(s) in the relevant media. To establish the relevant threshold, the beneficiary shall consider together the value of all linked items.

Below the threshold of EUR 130,000 or the threshold set out in the applicable public national procurement rules, the beneficiary shall award the contract to the tender

offering best value for money or, as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests and maintain written evidence of how the criterion of best value for money was met.

II.9.2 The beneficiaries shall retain sole responsibility for carrying out the project and for compliance with the provisions of the Agreement. The beneficiaries shall ensure that any procurement contract contains provisions stipulating that the contractor has no rights vis-à-vis the Agency under the Agreement.

II.9.3. The beneficiaries shall ensure that the conditions applicable to them under Articles II.3, II.4, II.5, II.8 and II.27 are also applicable to the contractor.

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

II.10.1 A "subcontract" is a procurement contract within the meaning of Article II.9, which covers the implementation by a third party of tasks forming part of the project as described in Annex II.

II.10.2 Beneficiaries may subcontract specific tasks of a fixed duration, forming part of the project, provided that, in addition to the conditions specified in Article II.9 and the Special Conditions, the following conditions are complied with:

(a) subcontracting only covers the implementation of a limited part of the project;

(b) recourse to subcontracting is justified having regard to the nature of the project and what is necessary for its implementation;

(c) the beneficiaries ensure that

- the conditions applicable to them under ArticleII.7 are also applicable to the subcontractor;
- all invoices issued by subcontractors bear a clear reference to the LIFE project (i.e. number and title or short title) and to the order/subcontract issued by the beneficiaries;
- all invoices issued by subcontractors are sufficiently detailed as to allow identification of single items covered by the service delivered (i.e. clear description and cost of each item).

ARTICLE II.11 - FINANCIAL SUPPORT TO THIRD PARTIES

Not applicable.

ARTICLE II.12 – AMENDMENTS TO THE AGREEMENT

II.12.1 Any amendment to the Agreement shall be made in writing.

II.12.2 An amendment may not have the purpose or the effect of making changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants.

Only substantial changes require a formal amendment of the grant agreement and will only be accepted in duly justified cases.

II.12.3 Any request for amendment shall be duly justified and shall be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the period set out in Article I.2.2, except in cases duly substantiated by the party requesting the amendment and accepted by the other party.

II.12.4 A request for amendment on behalf of the beneficiaries shall be submitted by the coordinating beneficiary. If a change of coordinating beneficiary is requested without its agreement, the request shall be submitted by all other beneficiaries.

II.12.5 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.13 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES

II.13.1 Claims for payments of the beneficiaries against the Agency 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 Agency if it has accepted the assignment on the basis of a written and reasoned request to that effect made by the coordinating beneficiary on behalf of the beneficiaries. In the absence of such an acceptance, or in the event of failure to observe the terms thereof, the assignment shall have no effect on the Agency.

II.13.2 In no circumstances shall such an assignment release the beneficiaries from their obligations towards the Agency.

ARTICLE II.14 – FORCE MAJEURE

II.14.1 "*Force majeure*" shall mean any unforeseeable exceptional situation or event beyond the parties' control, which prevents either of them from fulfilling any of their obligations under the Agreement, which was not attributable to error or negligence on their part or on the part of subcontractors, affiliated entities or third parties involved in the implementation and which proves to be inevitable in spite of exercising all due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties cannot be invoked as *force majeure*.

II.14.2 A party faced with *force majeure* shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

II.14.3 The parties shall take the necessary measures to limit any damage due to *force majeure*. They shall do their best to resume the implementation of the project as soon as possible.

II.14.4 The party faced with *force majeure* shall not be held to be in breach of its obligations under the Agreement if it has been prevented from fulfilling them by *force majeure*.

ARTICLE II.15 – SUSPENSION OF THE IMPLEMENTATION OF THE PROJECT

II.15.1 Suspension of the implementation by the beneficiaries

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

Unless the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.16.1, II.16.2 or points (c) or (d) of Article II.16.3.1, the coordinating beneficiary shall, once the circumstances allow resuming the implementation of the project, inform the Agency immediately and present a request for amendment of the Agreement as provided for in Article II.15.3.

II.15.2 Suspension of the implementation by the Agency

II.15.2.1 The Agency may suspend the implementation of the project or any part thereof:

(a) if the Agency has evidence that a beneficiary has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Agreement or if a beneficiary fails to comply with its obligations under the Agreement;

(b) if the Agency has evidence that a beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under other grants funded by the Union or the European Atomic Energy Community which were awarded to that beneficiary under similar conditions, provided that those errors, irregularities, fraud or breach of obligations have a material impact on this grant; or

(c) if the Agency suspects substantial errors, irregularities, fraud or breach of obligations committed by a beneficiary in the award procedure or in the implementation of the Agreement and needs to verify whether they have actually occurred.

II.15.2.2 Before suspending the implementation the Agency shall formally notify the coordinating beneficiary of its intention to suspend, specifying the reasons thereof, and, in the cases referred to in points (a) and (b) of Article II.15.2.1, the necessary conditions for resuming the implementation. The coordinating beneficiary shall be invited to submit observations on behalf of all beneficiaries within 30 calendar days from receipt of this notification.

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

If no observations have been submitted or if, despite the observations submitted by the coordinating beneficiary, the Agency decides to pursue the suspension procedure, it may suspend the implementation by formally notifying the coordinating beneficiary thereof, specifying the reasons for the suspension and, in the cases referred to in points (a) and (b) of Article II.15.2.1, the definitive conditions for resuming the implementation or, in the case referred to in point (c) of Article II.15.2.1, the indicative date of completion of the necessary verification.

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

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

Unless the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.16.1, II.16.2 or points (c), (i) or (j) of Article II.16.3.1, the Agency shall, as soon as it considers that the conditions for resuming the implementation have been met or the necessary verification, including on-the-spot checks, has been carried out, formally notify the coordinating beneficiary thereof and invite the coordinating beneficiary to present a request for amendment of the Agreement as provided for in Article II.15.3.

II.15.3 Effects of the suspension

If the implementation of the project can be resumed and the Agreement is not terminated, an amendment to the Agreement shall be made in accordance with Article II.12 in order to establish the date on which the project shall be resumed, to extend the duration of the project and to make any other modifications that may be necessary to adapt the project to the new implementing conditions.

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

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

The right of the Agency to suspend the implementation is without prejudice to its right to terminate the Agreement or the participation of a beneficiary in accordance with Article II.16.3 and its right to reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26.

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

ARTICLE II.16 – TERMINATION OF THE AGREEMENT

II.16.1 Termination of the Agreement by the coordinating beneficiary

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

If no reasons are given or if the Agency considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinating beneficiary, specifying the grounds thereof, and the Agreement shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.16.4.

II.16.2 Termination of the participation of one or more beneficiaries by the coordinating beneficiary

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

If no reasons are given or if the Agency considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinating beneficiary, specifying the grounds thereof, and the participation shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.16.4.

Without prejudice to Article II.12.2, an amendment to the Agreement shall be made, in order to introduce the necessary modifications.

II.16.3 Termination of the Agreement or the participation of one or more beneficiaries by the Agency

II.16.3.1 The Agency may decide to terminate the Agreement or the participation of any one or several beneficiaries participating in the project, in the following circumstances:

(a) if a change to the beneficiary's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Agreement substantially or calls into question the decision to award the grant;

(b) if, following the termination of the participation of any one or several beneficiaries, the necessary modifications to the Agreement would call into question the decision awarding the grant or would result in unequal treatment of applicants;

(c) if the beneficiaries do not implement the project as specified in Annex II or if a beneficiary fails to comply with another substantial obligation incumbent on it under the terms of the Agreement;

(d) in the event of *force majeure*, notified in accordance with Article II.14, or in the event of suspension by the coordinating beneficiary as a result of exceptional circumstances, notified in accordance with Article II.15, where resuming the implementation is impossible or where the necessary modifications to the Agreement would call into question the decision awarding the grant or would result in unequal treatment of applicants;

(e) if a beneficiary is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of any other similar proceedings concerning those matters, or is in an analogous situation arising from a similar procedure provided for in national legislation or regulations;

(f) if a beneficiary or any related person, as defined in the second subparagraph, have been found guilty of professional misconduct proven by any means;

(g) if a beneficiary is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or in which the project is implemented;

(h) if the Agency has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;

(i) if the Agency has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Agreement, including in the event of submission of false information or failure to submit required information in order to obtain the grant provided for in the Agreement; or

(j) if the Agency has evidence that a beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under other grants funded by the Union or the European Atomic Energy Community which were awarded to that beneficiary under similar conditions, provided that those errors, irregularities, fraud or breach of obligations have a material impact on this grant.

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

II.16.3.2 Before terminating the Agreement or the participation of any one or several beneficiaries, the Agency shall formally notify the coordinating beneficiary of its intention to terminate, specifying the reasons thereof and inviting the coordinating beneficiary, within 45 calendar days from receipt of the notification, to submit observations on behalf of all beneficiaries and, in the case of point (c) of Article II.16.3.1, to inform the Agency about the measures taken to ensure that the beneficiaries continue to fulfil their obligations under the Agreement.

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

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

In the cases referred to in points (a), (b), (c), (e) and (g) of Article II.16.3.1, the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h), (i) and (j) of Article II.16.3.1, the termination shall take effect on the day following the date on which the formal notification was received by the coordinating beneficiary.

II.16.4 Effects of termination

Where the Agreement is terminated, payments by the Agency shall be limited to the amount determined in accordance with Article II.25 on the basis of the eligible costs incurred by the beneficiaries and the actual level of implementation of the project on the date when the termination takes effect. Costs relating to current commitments, which are not due for

execution until after the termination, shall not be taken into account. The coordinating beneficiary shall have 60 days from the date when the termination of the Agreement takes effect, as provided for in Articles II.16.1 and II.16.3.2, to produce a request for payment of the balance in accordance with Article II.23.2. If no request for payment of the balance is received within this time limit, the Agency shall not reimburse or cover any costs which are not included in a financial statement approved by it or which are not justified in a technical report approved by it. In accordance with Article II.26, the Agency shall recover any amount already paid, if its use is not substantiated by the technical reports and, where applicable, by the financial statements approved by the Agency.

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

Where the Agency, in accordance with point (c) of Article II.16.3.1, is terminating the Agreement on the grounds that the coordinating beneficiary has failed to produce the request for payment and, after a reminder, has still not complied with this obligation within the deadline set out in Article II.23.3, the first subparagraph shall apply, subject to the following:

(a) there shall be no additional time period from the date when the termination of the Agreement takes effect for the coordinating beneficiary to produce a request for payment of the balance in accordance with Article II.23.2; and

(b) the Agency shall not reimburse or cover any costs incurred by the beneficiaries up to the date of termination or up to the end of the period set out in Article I.2.2, whichever is the earlier, which are not included in a financial statement approved by it or which are not justified in a technical report approved by it.

In addition to the first, second and third subparagraphs, where the Agreement or the participation of a beneficiary is terminated improperly by the coordinating beneficiary within the meaning of Articles II.16.1 and II.16.2, or where the Agreement or the participation of a beneficiary is terminated by the Agency on the grounds set out in points (c), (f), (h), (i) and (j) of Article II.16.3.1, the Agency may also reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26, in proportion to the gravity of the failings in question and after allowing the coordinating beneficiary, and, where relevant, the beneficiaries concerned, to submit their observations.

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

ARTICLE II.17 – ADMINISTRATIVE AND FINANCIAL PENALTIES

II.17.1 By virtue of Articles 109 and 131(4) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and with due regard to the principle of proportionality, a beneficiary which has committed substantial errors, irregularities or fraud, has made false declarations in supplying required information or has failed to supply such information at the moment of the submission of the application or during the implementation of the grant, or has been found in serious breach of its obligations under the Agreement shall be liable to:

(a) administrative penalties consisting of exclusion from all contracts and grants financed by the Union budget for a maximum of five years from the date on which the infringement is established and confirmed following a contradictory procedure with the beneficiary; and/or

(b) financial penalties of 2% to 10% of the value of the contribution the beneficiary concerned is entitled to in accordance with the estimated budget set out in Annex III.

In the event of another infringement within five years following the establishment of the first infringement, the period of exclusion under point (a) may be extended to 10 years and the range of the rate referred to in point (b) may be increased to 4% to 20%.

II.17.2 The Agency shall formally notify the beneficiary concerned of any decision to apply such penalties.

The Agency is entitled to publish such decision under the conditions and within the limits specified in Article 109(3) of Regulation (EU, Euratom) No 966/2012.

An action may be brought against such decision before the General Court of the European Union, pursuant to Article 263 of the Treaty on the Functioning of the European Union ("TFEU").

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

II.18.1 The Agreement is governed by the applicable Union law complemented, where necessary, by the law of Belgium.

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 Union and any beneficiary concerning the interpretation, application or validity of this 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.26 or financial penalties, the Agency 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.

II.18.4 By derogation from Article II.18.2, where a beneficiary is legally established in a country other than a Member State of the European Union (the 'non EU beneficiary'), the Agency and/or the non EU beneficiary may bring before the Belgian Courts any dispute between the Union and the non EU beneficiary concerning the interpretation, application or validity of the Agreement, if such dispute cannot be settled amicably. In such case where one party (i.e. the Agency or the non EU beneficiary) has brought proceedings before the Belgian Courts concerning the interpretation, application or validity of the Agreement, the other party may not bring a claim arising from the interpretation, application or validity of the Agreement in any other court than the Belgian Courts already seized.

PART B – FINANCIAL PROVISIONS

ARTICLE II.19 – ELIGIBLE COSTS

II.19.1 Conditions for the eligibility of costs

"Eligible costs" of the project are costs actually incurred by the beneficiary which meet the following criteria:

(a) they are incurred in the period set out in Article I.2.2, with the exception of costs relating to the request for payment of the balance and the corresponding supporting documents referred to in Article II.23.2;

A cost shall be considered as incurred in the period set out in Article I.2.2 when:

- the legal obligation to pay was contracted after the starting date and before the end date of the project, or after the signature of the grant agreement by the Agency in case this signature takes place before the project starting date;

(b) they are indicated in the estimated budget of the project set out in Annex III or have been accepted by the Agency as necessary to achieve the objectives of the project;

(c) they are incurred in connection with the project as described in Annex II and are necessary for its implementation;

(d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and with the usual cost accounting practices of the beneficiary;

(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

"Direct costs" of the project are those specific costs which are directly linked to the implementation of the project and can therefore be attributed directly to it. They may not include any indirect costs.

To be eligible, direct costs 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*** (also referred to as "direct personal cost") working under an employment contract with the beneficiary or an equivalent appointing act and assigned to the project, comprising actual salaries plus social security contributions and other statutory costs

included in the remuneration, provided that these costs are in line with the beneficiary's usual policy on remuneration;

The costs of natural persons working under a contract with the coordinating beneficiary or an associated beneficiary other than an employment contract 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 beneficiary and, unless otherwise agreed with the beneficiary, in the premises of the beneficiary;

(ii) the result of the work belongs to the beneficiary; and

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

The sum of the public contributions as beneficiaries to the project budget must exceed by at least 2 % the sum of the salary costs charged to the project described in Annex II for public body employees who are not considered 'additional'.

'Additional' personnel includes all employees – permanent or temporary – of public bodies whose contracts or contract renewals:

- start on or after the start date of the project or on or after the date of signature of the grant agreement by the Agency in case this date takes place before the project start date, and

- specifically second/assign them to the project.

For *LIFE Capacity Building projects*, the costs of non-additional personnel of public bodies are not eligible.

(b) ***costs of travel and related subsistence allowances***, provided that these costs are in line with the beneficiary's usual practices on travel;

(c) ***Depreciation costs and prototypes***
(i) the ***depreciation costs of durable goods*** in the form of ***new or second-hand equipment or infrastructure*** as recorded in the accounting statements of the beneficiary (i.e. placed on its inventory or other type of registry of durable goods or treated as capital expenditure in accordance with the applicable tax and accounting rules), provided that the asset has been purchased in accordance with Article II.9 and that it is depreciated in accordance with the international accounting standards and the usual accounting practices of the beneficiary.

The costs of ***rental or lease of equipment or infrastructure*** are also eligible, provided that these costs do not exceed the depreciation costs of similar equipment or assets as calculated above and are exclusive of any finance fee;

Only the portion of the equipment's depreciation, rental or lease costs corresponding to the period set out in Article I.2.2 and the rate of actual use for the purposes of the project may be taken into account.

The calculation basis for the eligible depreciation costs may not exceed the following ceilings:
- Equipment costs: 50% of the total purchase cost,
- Infrastructure costs: 25% of the total purchase cost;

In ***LIFE Capacity Building or LIFE Technical Assistance projects***, depreciation cost and the costs of rental or lease of infrastructure are not eligible.

For ***LIFE Nature and Biodiversity projects***, the purchase costs incurred for durable goods by ***public authorities or non-profit organisations*** (also referred to as non-governmental / non-commercial organisations), intrinsically connected with the implementation of the project and used to a significant degree within its duration shall be considered eligible in full. Such eligibility shall be subject to the coordinating beneficiary and associated beneficiaries undertaking to continue to assign these goods definitively to nature conservation activities beyond the end of the project co-financed under LIFE Nature and Biodiversity.

Costs incurred for the purchase of durable goods, including notice boards, can only be eligible if they bear the LIFE logo (and the Natura 2000 logo, when applicable);

(ii) A ***prototype*** is equipment or infrastructure specifically created for the implementation of the project and that has never been commercialised and/or is not available as a serial product. The prototype must play a crucial role in the demonstration activities of the project.

For ***prototypes*** 100% of the purchase costs of their components are eligible for co-funding.

A ***prototype*** may not be used for commercial purposes during the period set out in Article I.2.2. Should the prototype or any of its components be used for commercial purposes (i.e. sold, leased, rented or used to produce goods or services) during the project, this shall be declared. The costs of creating the prototype shall then be depreciated in accordance with the rules applicable to the purchase of new or second-hand equipment and infrastructure. Any related income should be declared.

(d) costs of ***consumables and supplies*** with the exception of general office consumables and supplies, provided that they are purchased in accordance with Article II.9 and are directly assigned to the project ;

(e) ***other costs*** arising directly from requirements imposed by the 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.9. Costs incurred for the production of communication material, including websites, can only be eligible if they are bearing the LIFE logo (and the Natura 2000 logo, when applicable);

(f) costs entailed by ***subcontracts*** (also referred to as external assistance costs) within the meaning of Article II.10 for services or works, provided that the conditions laid down in that Article are met;

(g) not applicable;

(h) duties, taxes and charges paid by the beneficiary, notably value added tax (VAT), provided that they are included in eligible direct costs, and unless specified otherwise in the Agreement are also considered other costs. Non-deductible VAT is eligible as expenditure, save for those activities matching the concept of sovereign powers exercised by Member States. For activities not matching the concept of sovereign authority, public authorities have to provide a certificate established by the competent national authority. Furthermore, for VAT charges to be considered eligible, the beneficiaries must prove with documents emitted by the responsible authorities or included in legal acts that they must pay and may not recover the VAT for the assets and services required for the project. In lieu of such legal documents, the Contracting Authority may accept as proof of VAT eligibility, an explicit declaration in the certificate on the financial statement (Annex VII);

(i) Costs incurred for ***land purchase or long-term lease of land or one-off compensations for land use rights*** regarding a plot of land which is intrinsically connected with implementation of the project and explicitly envisaged therein, shall be considered eligible in full provided that:

(aa) in and beyond the project the purchase will contribute to improving, maintaining and restoring the integrity of the Natura 2000 network, including through improving connectivity by the creation of corridors, stepping stones, or other elements of green infrastructure;

(bb) the land or land use rights acquired are owned by an entity or natural person who is not a project beneficiary or staff thereof and in relation to whom a conflict of interest can be excluded;

(cc) land purchase is the only or most cost-effective way of achieving the desired conservation outcome and the purchase price is based on market terms;

(dd) the land purchased is reserved in the long term for uses consistent with the objectives set out in Articles 11, 14 or 15 of the LIFE Regulation; and

(ee) the Member State concerned shall, by way of transfer or otherwise, ensure the long-term assignment of such land to nature conservation purposes.

(ff) the land/rights seller is not a public authority, with the exception of short-term leases by local authorities;

(gg) for land purchased as provided for in the project, the coordinating beneficiary shall ensure the entry in the land register includes a guarantee that the land will be assigned definitively to nature conservation. If in a given Member State the land register does not exist or it does not provide a sufficient legal guarantee, the coordinating beneficiary shall have a clause for the definitive assignment of the land to nature conservation included in the land sale contract. For countries where it would be illegal to include such a guarantee both in the land register and in the sale contract, the Agency may accept an equivalent guarantee in this connection, provided it offers the same legal level of protection in the long term

and complies with the requirement contained in Article 20(3) of Regulation No 1293/2013:

(hh) in addition, for land purchased by private organisations, the entry in the land register (or the sales contract if accepted in lieu thereof if accepted as per the previous paragraph) includes a guarantee that the land property will be transferred to a legal body primarily active in the field of nature protection, in case of dissolution of the private organisation or its incapacity to manage the land according to nature conservation requirements. For countries where it would be illegal to include such a guarantee in the land register or sales contract, the Agency may accept an equivalent guarantee in this connection, provided it offers the same legal level of protection in the long term and complies with the requirement contained in Article 20(3) of Regulation No 1293/2013;

(ii) for the purchase of rights, the entry in the land register must be duly amended;

(jj) in case of land purchased to be exchanged at a later date for another parcel on which project projects will be undertaken, the exchange is carried out before the end of the project at the latest and the provisions of the present Article shall apply to the lands received through the exchange. The land purchased to be exchanged shall be exempt, at the stage of the mid-term reporting, from the guarantee that the land will be assigned definitively to nature conservation.

The duration of a *land lease* shall either be restricted to the duration of the project (short term lease), in which case it is considered subcontracting, or be at least of 20 years (long-term lease) and shall be compatible with the needs of habitat and species protection. In the case of long-term lease of land, the lease contract shall clearly include all the provisions and commitments that will permit the achievement of its objectives in terms of habitat and species protection.

The LIFE Land Purchase Database (LPD) stores electronic data of land parcels financed by LIFE. The coordinating beneficiary is responsible for entering and validating the land purchase data (both descriptive and spatial) in the LPD at the stage of the final report submission. The data format will have to be adapted to the GIS standards used in the LPD. The coordinating beneficiary will be provided access to the LPD six months before the project end date as specified in Article I.2.2.

Costs incurred for payment of compensation for foregone income shall be eligible provided that the expense was necessary for reaching the objectives of a LIFE Nature and Biodiversity, LIFE Climate Change Mitigation or LIFE Climate Change Adaptation project, and that the payment of compensation:

- corresponds to market prices;
- is formalised through a legal document; and
- compensation is not paid to a public authority, with the exception of a temporary compensation to a local authority.

II.19.3 Eligible indirect costs

"Indirect costs" of the project (also referred to as "overheads") are those costs which are not specific costs directly linked to the implementation of the project and can therefore not be

attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs.

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

Eligible indirect costs shall be declared on the basis of a flat rate as specified in Annex III in accordance with Article I.3 (a) (iv) and may not exceed 7% of the eligible direct costs excluding costs of land purchase/long-term lease of land/one-off compensations for land use rights.

II.19.4 Ineligible costs

In addition to any other costs which do not fulfil the conditions set out in Article II.19.1 to 3, in particular the following costs shall not be considered eligible:

(a) return on capital;

(b) debt and debt service charges;

(c) provisions for losses, debts or other liabilities;

(d) interest owed;

(e) doubtful debts;

(f) exchange losses;

(g) costs of transfers from the Agency charged by the bank of a beneficiary;

(h) costs declared by the beneficiary in the framework of another project receiving a grant financed from the Union budget (including grants awarded by a Member State and financed from the Union budget and grants awarded by other bodies than the Agency or the Commission for the purpose of implementing the Union budget); in particular, indirect costs shall not be eligible under a grant for an project awarded to a beneficiary which already receives an operating grant financed from the Union budget during the period in question;

(i) contributions in kind from third parties including voluntary work;

(j) excessive or reckless expenditure;

(k) any costs related to actions that may be considered as compensatory or mitigation measures for damages[2] caused to nature or biodiversity by permitted plans or projects;

[2] Unless such damages would be caused by the objectives of the LIFE project itself.

(l) unless explicitly foreseen in the project description in Annex II, any costs related to management plans, action plans and similar plans[3], drafted or modified in the context of a LIFE project, if the related plan is not adopted and operational before the project end date. This includes the completion, before the project end date, of all procedural/legal steps in Member States where such procedures are foreseen;

(m) costs for major infrastructure or fundamental scientific research unless explicitly foreseen in the project description in Annex II;

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

II.20.1 Reimbursement of actual costs

Where, in accordance with Article I.3(a)(i), the grant takes the form of the reimbursement of actual costs, the beneficiary must declare as eligible costs the costs it actually incurred for the project.

If requested to do so in the context of the checks or audits described in Article II.27, the beneficiary must be able to provide adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records. In addition, the beneficiary's usual accounting and internal control procedures must permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements as well as with the amounts indicated in the supporting documents.

II.20.2 Reimbursement of pre-determined unit costs or pre-determined unit contribution

Not applicable

II.20.3 Reimbursement of pre-determined lump sum costs or pre-determined lump sum contribution

Not applicable

II.20.4 Reimbursement of flat-rate costs

Not applicable.

II.20.5 Reimbursement of costs declared on the basis of the beneficiary's usual cost accounting practices

Not applicable

[3] Obligatory "After-LIFE plans" are not included in this category.

ARTICLE II.21 – ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE BENEFICIARIES

Where the Special Conditions contain a provision on entities affiliated to the beneficiaries, 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 beneficiary, and that the beneficiary the entity is affiliated to ensures that the conditions applicable to him under Articles II.3, II.4, II.5, II.7, II.9, II.10 and II.27 are also applicable to the entity.

ARTICLE II.22 – BUDGET TRANSFERS

Without prejudice to Article II.10 and provided that the project is implemented as described in Annex II, beneficiaries are allowed to adjust the estimated budget set out in Annex III by transfers between themselves, and up to a limit of 20% of the overall eligible costs, between the different budget categories, without this adjustment being considered as an amendment of the Agreement within the meaning of Article II.12.

By way of derogation from the first subparagraph, should beneficiaries want to modify the value of the contribution that each of them is entitled to as referred to in point (b) of Article II.17.1 and point (c) of II.26.3, the coordinating beneficiary shall request an amendment in accordance to Article II.12.

ARTICLE II.23 – TECHNICAL AND FINANCIAL REPORTING – REQUESTS FOR PAYMENT AND SUPPORTING DOCUMENTS

(a) Whenever the delay between consecutive reports exceed 18 months the coordinating beneficiary must submit a progress report fulfilling the reporting requirements set out in Article II.23.1.

(b) All reports shall contain the necessary information for the Agency to evaluate the state of implementation of the project, the respect of the work plan, the financial status of the project and whether the project's objectives have been achieved or are still achievable.

(c) The form and contents of the reports shall be in accordance with the Guidelines issued by the Agency as specified on the website http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm.

(d) All reports shall be simultaneously forwarded, in both paper and electronic formats, to the Agency and to the external monitoring team designated by the Agency.

(e) Electronic tools, which include spatial data and are produced in the frame of a LIFE project, shall comply with the Commission Regulation (EU) No 1253/2013 of 21 October 2013 amending Regulation (EU) No 1089/2010 implementing Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Union (INSPIRE).

(f) The Agency and the external monitoring team designated by the Commission shall each receive one complete copy of the technical reports, including annexes, and of the

financial statement. The coordinating beneficiary shall submit a copy of the final report to the Member State authorities. These latter also have the right to ask for a copy of the progress report accompanying further pre-financing payments.

II.23.1 Requests for further pre-financing payments and supporting documents

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

The request shall be accompanied by the following documents:

(a) a progress report on implementation of the project ("technical report on progress"), drawn up in accordance with Annex V;

(b) 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 VI;

(c) where required by Article I.4.1, a financial guarantee.

II.23.2 Requests for payment of the balance and supporting documents

The coordinating beneficiary shall submit a signed request for payment of the balance within 90 days following the end of the project period as specified in Article I.2.2.

This request shall be accompanied by the following documents:

(a) a final report on implementation of the project ("final technical report"), drawn up in accordance with Annex V; the final technical report must contain the information needed to justify the eligible costs declared, as well as information on subcontracting as referred to in Article II.10.2(d);

(b) a final financial statement ("final financial statement") which must include a consolidated statement as well as a breakdown of the amounts claimed by each beneficiary and its affiliated entities; they must be drawn up in accordance with the structure of the estimated budget set out in Annex III and with Annex VI and detail the amounts for each of the forms of grant set out in Article I.3 for the entire project period as specified in Article I.2.2;

(c) not applicable;

(d) for beneficiaries for which the total contribution in the form of reimbursement of actual costs as referred to in Annex III is at least EUR 325,000, a certificate on the financial statements and underlying accounts ("certificate on the financial statements");

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 final financial statement by each beneficiary or its affiliated entities for the categories of costs reimbursed in accordance with Article I.3(a)(i) are real, accurately recorded and eligible in accordance with the Agreement. In addition, for the payment of the balance, it shall certify that all the receipts referred to in Article II.25.3.2 have been declared.

The coordinating beneficiary shall certify that the information provided in the request 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 the 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.27. In addition, for the payment of the balance, it shall certify that all the receipts referred to in Article II.25.3.2 have been declared.

II.23.3 Non-submission of documents

Where the coordinating beneficiary has failed to submit a request for interim payment or payment of the balance accompanied by the documents referred to above within 90 days following the end of the corresponding reporting period and where the coordinating beneficiary still fails to submit such a request within 60 days following a written reminder sent by the Agency, the Agency reserves the right to terminate the Agreement in accordance with Article II.16.3.1(c), with the effects described in the third and the fourth subparagraphs of Article II.16.4.

II.23.4 Currency for requests for payment and financial statements and conversion into euro

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

Beneficiaries with general accounts in a currency other than the euro shall convert costs incurred in another currency into euro at the monthly accounting rate established by the Commission and published on its website *(http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)* applicable on the day when the cost was incurred, or at the monthly accounting rate established by the Commission and published on its website applicable on the first working day of the month following the period covered by the financial statement concerned.

Beneficiaries with general accounts in euro shall convert costs incurred in another currency into euro according to their usual accounting practices.

ARTICLE II.24 – PAYMENTS AND PAYMENT ARRANGEMENTS

II.24.1 Pre-financing

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

Without prejudice to Article II.24.6, where Article I.4.1 provides for a pre-financing payment upon entry into force of the Agreement, the Agency shall pay to the coordinating beneficiary within 30 days following that date or where required by Article I.4.1, following receipt of the payment request or the financial guarantee.

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

(a) it is provided by a bank or an approved financial institution or, at the request of the coordinating beneficiary and acceptance by the Agency, by a third party;

(b) the guarantor stands as first-call guarantor and does not require the Agency to have recourse against the principal debtor (i.e. the beneficiary concerned); and

(c) it provides that it remains in force until the pre-financing is cleared against payment of the balance by the Agency 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 a beneficiary. The Agency shall release the guarantee within the following month.

II.24.2 Further pre-financing payments

Without prejudice to Articles II.24.5 and II.24.6, subject to the submission of a signed payment request, as well as, where a certificate on the financial statements and underlying accounts is required by Article II.23.2(d), the official registration number, organisation, full name and address of the approved auditor or competent and independent public officer who are to establish that certificate for the payment of the balance, on receipt of the documents referred to in Article II.23.1, the Agency shall pay to the coordinating beneficiary the new pre-financing instalment within 60 days.

Acceptance of the request for payment of the further pre-financing and of the accompanying documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contains.

II.24.3 Interim payments

Not applicable.

II.24.4 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 I.2.2 the remaining part of the eligible costs incurred by the beneficiaries 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.25, the payment of the balance may take the form of a recovery as provided for by Article II.26.

Without prejudice to Articles II.24.5 and II.24.6, on receipt of the documents referred to in Article II.23.2, the Agency shall pay the amount due as the balance within the time limit specified in Article I.4.2.

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.25, the total amount of pre-financing and interim payments already made.

II.24.5 Suspension of the time limit for payment

The Agency may suspend the time limit for payment specified in Articles I.4.2 and II.24.2 at any time by formally notifying the coordinating beneficiary that its request for payment cannot be met, either because it does not comply with the provisions of the Agreement, or because the appropriate supporting documents have not been produced, or because there is doubt about the eligibility of the costs declared in the financial statement.

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

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

Where the time limit for payment has been suspended following the rejection of one of the technical reports or financial statements provided for by Article II.23 and the new report or statement submitted is also rejected, the Agency reserves the right to terminate the Agreement in accordance with Article II.16.3.1(c), with the effects described in Article II.16.4.

II.24.6 Suspension of payments

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

(a) if the Agency has evidence that a beneficiary has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the grant, or if a beneficiary fails to comply with its obligations under the Agreement;

(b) if the Agency has evidence that a beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under other grants funded by the Union or by the European Atomic Energy Community which were awarded to that beneficiary under similar conditions, provided that those errors, irregularities, fraud or breach of obligations have a material impact on this grant; or

(c) if the Agency suspects substantial errors, irregularities, fraud or breach of obligations committed by a beneficiary in the award procedure or in the implementation of the Agreement and needs to verify whether they have actually occurred.

Before suspending payments, the Agency shall formally notify the coordinating beneficiary of its intention to suspend payments, specifying the reasons thereof and, in the cases referred to in points (a) and (b) of the first subparagraph, the necessary conditions for resuming payments. The coordinating beneficiary shall be invited to make any observations on behalf of all beneficiaries within 30 calendar days from receipt of this notification.

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

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

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

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

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

During the period of suspension of payments and without prejudice to the right to suspend the implementation of the project in accordance with Article II.15.1 or to terminate the Agreement or the participation of a beneficiary in accordance with Article II.16.1 and Article II.16.2, the coordinating beneficiary is not entitled to submit any requests for payments and supporting documents referred to in Article II.23 or, where the suspension concerns the pre-financing payments or interim payments for one or several beneficiaries only, any requests for payments and supporting documents relating to the participation of the concerned beneficiary or beneficiaries in the project.

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 I.4.1.

II.24.7 Notification of amounts due

The Agency 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.25.

II.24.8 Interest on late payment

On expiry of the time limits for payment specified in Articles I.4.2, II.24.1 and II.24.2, and without prejudice to Articles II.24.5 and II.24.6, the beneficiaries are 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 all beneficiaries are Member States of the Union, including regional and local government authorities and other public bodies acting in the name and on behalf of the Member State for the purpose of this Agreement.

The suspension of the time limit for payment in accordance with Article II.24.5 or of payment by the Agency in accordance with Article II.24.6 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.24.10. The interest payable shall not be considered for the purposes of determining the final amount of grant within the meaning of Article II.25.3.

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 coordinating beneficiary only upon request submitted within two months of receiving late payment.

II.24.9 Currency for payments

Payments by the Agency shall be made in euro.

II.24.10 Date of payment

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

II.24.11 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 Commission shall be borne by the Commission;

(b) costs of transfer charged by the bank of a beneficiary shall be borne by the beneficiary;

(c) all costs of repeated transfers caused by one of the parties shall be borne by the party which caused the repetition of the transfer.

II.24.12 Payments to the coordinating beneficiary

Payments to the coordinating beneficiary shall discharge the Agency from its payment obligation.

ARTICLE II.25 – DETERMINING THE FINAL AMOUNT OF THE GRANT

II.25.1 Calculation of the final amount

Without prejudice to Articles II.25.2, II.25.3 and II.25.4, the final amount of the grant shall be determined as follows:

(a) where, in accordance with Article I.3(a), the grant takes the form of the reimbursement of eligible costs, the amount obtained by application of the reimbursement rate specified in that Article to the eligible costs of the project approved by the Agency for the corresponding categories of costs, beneficiaries and affiliated entities;

(b) not applicable;

(c) not applicable;

(d) not applicable.

II.25.2 Maximum amount

The total amount paid to the beneficiaries by the Agency may in no circumstances exceed the maximum amount nor the reimbursement rate specified in Article I.3.

Where the amount determined in accordance with Article II.25.1 exceeds this maximum amount, the final amount of the grant shall be limited to the maximum amount specified in Article I.3.

II.25.3 No-profit rule and taking into account of receipts

II.25.3.1 The grant may not produce a profit for the beneficiaries, unless specified otherwise in the Special Conditions. "Profit" shall mean a surplus of the receipts over the eligible costs of the project.

II.25.3.2 The receipts to be taken into account are the consolidated receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the coordinating beneficiary, which fall within one of the following two categories:

(a) income generated by the project; or

(b) financial contributions specifically assigned by the donors to the financing of the eligible costs of the project reimbursed by the Agency in accordance with Article I.3(a)(i).

II.25.3.3 The following shall not be considered as receipts to be taken into account for the purpose of verifying whether the grant produces a profit for the beneficiaries:

(a) financial contributions referred to in point (b) of Article II.25.3.2, which may be used by the beneficiaries to cover costs other than the eligible costs under the Agreement;

(b) financial contributions referred to in point (b) of Article II.25.3.2, the unused part of which is not due to the donors at the end of the period set out in Article I.2.2.

II.25.3.4 The eligible costs to be taken into account are the consolidated eligible costs approved by the Agency for the categories of costs reimbursed in accordance with Article I.3(a).

II.25.3.5 Where the final amount of the grant determined in accordance with Articles II.25.1 and II.25.2 would result in a profit for the beneficiaries, the profit shall be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the project approved by the Agency for the categories of costs referred to in Article I.3(a)(i). This final rate shall be calculated on the basis of the final amount of the grant in the form referred to in Article I.3(a)(i), as determined in accordance with Articles II.25.1 and II.25.2.

II.25.4 Reduction for poor, partial or late implementation

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

ARTICLE II.26 – RECOVERY

II.26.1 Recovery at the time of payment of the balance

Where the payment of the balance takes the form of a recovery, the coordinating beneficiary shall repay the Agency the amount in question, even if it has not been the final recipient of the amount due. However, the Agency reserves the right, where appropriate, to recover the amount due directly from the final recipient.

II.26.2 Recovery after payment of the balance

Where an amount is to be recovered in accordance with Articles II.27.6, II.27.7 and II.27.8, the beneficiary concerned by the audit or OLAF findings shall repay the Agency the amount in question. Where the audit findings do not concern a specific

beneficiary, the coordinating beneficiary shall repay the Agency the amount in question, even if it has not been the final recipient of the amount due.

Each beneficiary shall be responsible for the repayment of any amount unduly paid by the Agency as a contribution towards the costs incurred by its affiliated entities.

II.26.3 Recovery procedure

Before recovery, the Agency shall formally notify the beneficiary concerned of its intention to recover the amount unduly paid, specifying the amount due and the reasons for recovery and inviting the beneficiary to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the beneficiary, the Agency decides to pursue the recovery procedure, the Agency may confirm recovery by formally notifying to the beneficiary 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 Agency or the Commission shall recover the amount due:

(a) by offsetting it against any amounts owed to the beneficiary concerned by the Union or the European Atomic Energy Community (Euratom) ("offsetting"); in exceptional circumstances, justified by the necessity to safeguard the financial interests of the Union, the Agency or the Commission may recover by offsetting before the due date; the beneficiary'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 I.4.1 ("drawing on the financial guarantee");

(c) by holding the beneficiaries jointly and severally liable up to the value of the contribution that the beneficiary held liable is entitled to receive. This contribution shall be that indicated in the estimated budget breakdown as set out in Annex III as last amended;

(d) 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.

For the purposes of point (c) of the third subparagraph, the beneficiaries shall not be jointly and severally liable for financial penalties which could be imposed on any defaulting beneficiary in accordance with Article II.17

II.26.4 Interest on late payment

If payment has not been made by the date set out in the debit note, the amount due shall bear interest at the rate established in Article II.24.8. Interest on late payment

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

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

II.26.5 Bank charges

Bank charges incurred in connection with the recovery of the sums owed to the Agency shall be borne by the beneficiary concerned except where Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC applies.

ARTICLE II.27 – CHECKS, AUDITS AND EVALUATION

II.27.1 Technical and financial checks, audits, interim and final evaluations

The Agency may carry out technical and financial checks and audits in relation to the use of the grant. It may also check the statutory records of the beneficiaries 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 Agency may carry out interim or final evaluation of the impact of the project measured against the objective of the Union programme concerned.

Checks, audits or evaluations made by the Agency 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 Agreement and for a period of five years starting from the date of payment of the balance. This period shall be limited to three years if the maximum amount specified in Article I.3 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 Agency announcing it.

II.27.2 Duty to keep documents

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

This period shall be limited to three years if the maximum amount specified in Article I.3 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.27.7. In such cases, the beneficiaries shall keep the documents until such audits, appeals, litigation or pursuit of claims are closed.

II.27.3 Obligation to provide information

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

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

In case the beneficiary concerned does not comply with the obligations set out in the first and second subparagraphs, the Agency may consider:
(a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible;
(b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the beneficiary as undue.

II.27.4 On-the-spot visits

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

They 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 beneficiary concerned refuses to provide access to the sites, premises and information in accordance with the first and second subparagraphs, the Agency may consider:
(a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible;
(b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the beneficiary as undue.

II.27.5 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 Agency or its authorised representative to the beneficiary concerned, which shall have 30 days from the date of receipt to submit observations. The final report ("final audit report") shall be sent to the beneficiary concerned within 60 days of expiry of the time limit for submission of observations.

II.27.6 Effects of audit findings

On the basis of the final audit findings, the Agency may take the measures which it considers necessary, including recovery at the time of payment of the balance or after payment of the balance of all or part of the payments made by it, in accordance with Article II.26.

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 grant, determined in accordance with Article II.25, and the total amount paid to the beneficiaries under the Agreement for the implementation of the project.

II.27.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations

II.27.7.1 The Agency may take all measures which it considers necessary, including recovery at the time of payment of the balance or after payment of the balance of all or part of the payments made by it under the Agreement, in accordance with Article II.26, where the following conditions are fulfilled:

(a) the beneficiary is found, on the basis of an audit of other grants awarded to it under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant; and

(b) the final audit report containing the findings of the systemic or recurrent errors, irregularities, fraud or breach of obligations is received by the beneficiary within the period referred to in Article II.27.1.

II.27.7.2 The Agency shall determine the amount to be corrected under the Agreement:

(a) wherever possible and practicable, on the basis of costs unduly declared as eligible under the Agreement.

For that purpose, the beneficiary concerned shall revise the financial statements submitted under the Agreement taking account of the findings and resubmit them to the Agency within 60 days from the date of receipt of the final audit report containing the findings of the systemic or recurrent errors, irregularities, fraud or breach of obligations.

In the case of systemic or recurrent errors, irregularities, fraud or breach of obligations found after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final amount of the grant, determined in accordance with Article II.25 on the basis of the revised eligible costs declared by the beneficiary and approved by the Agency, and the total amount paid to the beneficiaries under the Agreement for the implementation of the project;

(b) where it is not possible or practicable to quantify precisely the amount of ineligible costs under the Agreement, by extrapolating the correction rate

applied to the eligible costs for the grants for which the systemic or recurrent errors or irregularities have been found.

The Agency shall formally notify the extrapolation method to be applied to the beneficiary concerned, which shall have 60 days from the date of receipt of the notification to submit observations and to propose a duly substantiated alternative method.

If the Agency accepts the alternative method proposed by the beneficiary, it shall formally notify the beneficiary concerned thereof and determine the revised eligible costs by applying the accepted alternative method.

If no observations have been submitted or if the Agency does not accept the observations or the alternative method proposed by the beneficiary, the Agency shall formally notify the beneficiary concerned thereof and determine the revised eligible costs by applying the extrapolation method initially notified to the beneficiary.

In the case of systemic or recurrent errors, irregularities, fraud or breach of obligations found after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final amount of the grant, determined in accordance with Article II.25 on the basis of the revised eligible costs after extrapolation, and the total amount paid to the beneficiaries under the Agreement for the implementation of the project; or

(c) where ineligible costs cannot serve as a basis for determining the amount to be corrected, by applying a flat rate correction to the maximum amount of the grant specified in Article I.3 or part thereof, having regard to the principle of proportionality.

The Agency shall formally notify the flat rate to be applied to the beneficiary concerned, which shall have 60 days from the date of receipt of the notification to submit observations and to propose a duly substantiated alternative flat rate.

If the Agency accepts the alternative flat rate proposed by the beneficiary, it shall formally notify the beneficiary concerned thereof and correct the grant amount by applying the accepted alternative flat rate.

If no observations have been submitted or if the Agency does not accept the observations or the alternative flat rate proposed by the beneficiary, the Agency shall formally notify the beneficiary concerned thereof and correct the grant amount by applying the flat rate initially notified to the beneficiary.

In the case of systemic or recurrent errors, irregularities, fraud or breach of obligations found after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final

amount of the grant after flat-rate correction and the total amount paid to the beneficiaries under the Agreement for the implementation of the project.

II.27.8 Checks and inspections by OLAF

The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in

(i) Regulation (EC) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) n°1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) n°1074/1999 and

(ii) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities

with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with this Agreement.

II.27.9 Checks and audits by the Commission and the European Court of Auditors

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