EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate B - Investment, Innovative & Sustainable Transport
The Director

MODEL GRANT AGREEMENT
UNDER THE CONNECTING EUROPE FACILITY (CEF) – TRANSPORT SECTOR

for the Programme Support Action (PSA) "Enhancing the cooperation between Railway Stakeholders for improving safety culture" (Twinning II)

GRANT AGREEMENT
UNDER THE CONNECTING EUROPE FACILITY (CEF)

GRANT AGREEMENT No

The **European Union**, represented by the European Commission ("the Commission"), represented for the purposes of signature of this Agreement by the Director of the Directorate C Land, of Directorate-General for Mobility and Transport, Ms Elisabeth Werner

on the one part,

and

[Option if a coordinator is designated:

*1. **[full official name] [(ACRONYM or short name)]***
[official legal status or form]
[Registration No [official registration No]]
[official address in full]
[VAT No [VAT number]],

hereinafter referred to as "the coordinator", represented for the purposes of signature of this Agreement by [function, forename and surname] [and [function, forename and surname of the second authorised representative, if any]]

and the following other beneficiaries:

Option 1 for signing:
*2. [**full official name ([ACRONYM or short name])** - established in [country]]*
*3. [**full official name ([ACRONYM or short name])** - established in [country]]*
[idem for each beneficiary]
duly represented by the coordinator by virtue of the mandate[s] included in Annex IV for the signature of this Agreement,

Option 2 for signing:
*2. **[full official name] [(ACRONYM or short name)]***
[official legal status or form
[Registration No [official registration No]]
[official address in full]
[VAT No [VAT number]],
represented for the purposes of signature of this Agreement by [function, forename and surname] [and [function, forename and surname of the second authorised representative, if any]]

[idem for each beneficiary]

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 coordinator or another beneficiary,]

on the other part,
,

HAVE AGREED

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

Annex I	Description of the action
Annex II	General Conditions (hereinafter referred to as “the General Conditions”)
Annex III	Estimated budget of the action
Annex IV	Mandates provided to the coordinator by the other beneficiaries
Annex V	Model technical report(s)
Annex VI	Model financial statement(s)
Annex VII	Model terms of reference for the certificate on the financial statements

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 II "General Conditions" shall take precedence over the other Annexes.

SPECIAL CONDITIONS

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ARTICLE 1 – SUBJECT MATTER OF THE AGREEMENT

The Commission 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 action entitled **Enhancing the cooperation between Railway Stakeholders for improving safety culture – Twinning II** ("the action"), action number **[insert number of the action in bold]** as described in Annex I.

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

ARTICLE 2 – ENTRY INTO FORCE OF THE AGREEMENT AND DURATION OF THE ACTION

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

2.2 The action shall run from *1 february* ("the starting date") until *31st January 2023* ("the completion date").

ARTICLE 3 - MAXIMUM AMOUNT AND FORM OF THE GRANT

The grant for the action shall be of a **maximum amount of EUR [].**

The grant shall take the form of:

(a) the reimbursement of 100% of the eligible costs of the action ("reimbursement of eligible costs"), which are estimated at EUR […] and which are:

(i) actually incurred ("reimbursement of actual costs") for the direct costs of the following activities for the beneficiaries *and affiliated entities:*
- accommodation expenses of participants to the twinning programme, by derogation to Article II.19.2 (b), limited to the maximum amount per night established in the document "Conditions for awarding grant" annexed to the invitation to submit a proposal;
- travel expenses of participants to the twinning programme;
- costs of personnel working for the coordinator for the time devoted to the coordination and administration of the consortium under the conditions stated in the Article II.19.2 (a) of the grant agreement;
- travel and accommodation (1 night, where relevant) expenses of twinning pairs to attend the final conference;
- facilities, consumables and supplies for the final conference, including subcontracting costs for its organisation.

(ii) reimbursement of unit costs: not applicable
(iii) reimbursement of lump sum costs: not applicable
(iv) reimbursement of flat-rate costs: not applicable
(v) reimbursement of costs declared on the basis of the beneficiary's usual cost accounting practices: not applicable

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

4.1 Reporting periods and payments

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

4.1.1 Reporting periods

(a) The action is divided into the following report actions:

- First reporting period : (so called Action plan) from the starting date of the action to month 2 (included);
- Mid reporting period : from month 2 to month 15 (included)
- Final reporting period: from month 15 to the completion date of the action (in any case before the 36th month).

(b) Within 30 days following the end of first and mid reporting period. , the beneficiary should provide a Progress Report, covering:

- the progress in the implementation of the action, in particular;
  - description of how twin pairs have been actually matched;
  - list of twin pairs selected or its statutes;
  - development areas which have been identified for each twin pairs;
  - twinning arrangements established and undertaken so far;
  - outcomes delivered so far;
  - planning of the next steps towards the completion of the action.
  - How the actions covered in point 6.3 of the document "CONDITIONS FOR AWARDING GRANTS" are going to be fulfilled or have been fulfilled.
- the contribution of the activities to the achievement of the objectives of the action, as described in Annex I, with focus on;
  - how knowledge and good practice have been shared during twinning visits;
  - approaches to safety management analysed and shared;
  - benefits and blockers to a more mature and just safety culture emerged during first exchanges;
  - occurrence reporting: procedures, issues, development.

- where applicable, the complementarity with other actions funded by EU, in the current and/or previous programming periods;
- information on any delays in the achievement of the objectives of the action, and mitigation actions undertaken;
- where applicable, main publication actions and environmental information.

A **final report** will be submitted within 90 days following the completion date of the action as referred to in Article 2.2, together with the request for payment of balance and supporting documents in accordance with Article II.23.2.2. This final report will contain, at least, useful lessons and training proposal for third party stakeholders on the safety culture (with special attention to the items point 6.3 of the document "CONDITIONS FOR AWARDING GRANTS")

4.1.2 Payments

30 calendar days upon receipt of the countersigned Agreement , the Commission shall make a pre-financing payment of 35% of the maximum grant amount to the coordinator in accordance with Article II.24.1,[*subject to the receipt of a guarantee of [an amount equal to the pre-financing to be paid]*.

At the end of the second reporting period, the Commission shall make an interim payment to the coordinator in accordance with Article II.24.2.

The interim payment shall clear 50% of the amount of the pre-financing previously paid.

The total amount of pre-financing and interim payments shall not exceed 55% of the maximum grant amount.

At the end of the last reporting period, the Commission shall make the payment of the balance to the coordinator in accordance with Article II.24.3.

4.2 Time limit for payments

The time limit for the Commission to make *interim payment(s) and* the payment of the balance is 90 days.

4.3 Language and submission means of requests for payment, reports and financial statements

All requests for payments, reports and financial statements shall be submitted in English.

Those documents or, if applicable, scanned copies of the original signed paper versions and electronic files, shall be sent via e-mail to the e-mail address specified in Article 6.2.

Those documents shall be sent in two paper copies to the address specified in Article 6.2

ARTICLE 5 – BANK ACCOUNT FOR PAYMENTS

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

Name of bank: [...]
Precise denomination of the account holder: [...]
Full account number (including bank codes): [...]
[IBAN] [BIC] [SWIFT] code[1]: [...]]

ARTICLE 6 - DATA CONTROLLER AND COMMUNICATION DETAILS OF THE PARTIES

6.1 Data controller

The entity acting as a data controller according to Article II.6 shall be shall be the Director of the Directorate C Land, of Directorate-General for Mobility and Transport, Ms Elisabeth Werner of the European Commission.

6.2 Communication details of the Commission

Any communication related to the technical management of this Grant Agreement shall be addressed by email to the following address:

European Commission
Directorate-General for Mobility and Transport
For the attention of the Head of Unit C.4 Mr. Keir Fitch
DM28 4/040
B-1049 Brussels
Belgium
e-mail: MOVE-C4-TWINNING-PROGRAMME@ec.europa.eu
With copy to: MOVE-FINANCES@ec.europa.eu

Any communication related to payments shall be sent by email and post to the following address:

European Commission
Directorate-General for Mobility and Transport

[1] Options [BIC] or [SWIFT] code should be chosen for countries where the IBAN code does not apply.

For the attention of the Head of Unit SRD.3

Rue de Mot 28, 0/110 – Archives
B-1049 Brussels
Belgium

Email: MOVE-FINANCES@ec.europa.eu

Cc: MOVE-C4-TWINNING-PROGRAMME@ec.europa.eu

6.3 Communication details of the beneficiaries

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

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

ARTICLE 7 – ENTITIES AFFILIATED TO THE BENEFICIARIES

For the purpose of this Agreement, the following entities are considered as affiliated entities:

- [name of the entity], affiliated to [name or acronym of the beneficiary];
- [name of the entity], affiliated to [name or acronym of the beneficiary];

[idem for further affiliated entities].]

ARTICLE 8 - IMPLEMENTING BODIES DESIGNATED BY THE BENEFICIARIES

For the purpose of this Agreement, the following entities are considered as implementing bodies:

- *[[name of the entity], designated by [name or acronym of the beneficiary]][the contractor(s) to be designated by [name or acronym of the beneficiary], if the contract with that contractor is awarded in accordance with Article II.9.2]*;
- *[idem for further implementing bodies]*.]

ARTICLE 9 - MONO-BENEFICIARY GRANT

Not applicable.

ARTICLE 10 – ADDITIONAL PROVISIONS ON REIMBURSEMENT OF COSTS DECLARED ON THE BASIS OF THE BENEFICIARY'S USUAL COST ACCOUNTING PRACTICES

Not applicable.]

ARTICLE 11 – ADDITIONAL PROVISIONS ON USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)

In addition to the provisions of Article II.8.3, the beneficiaries shall warrant that the Agency has the rights to:

- summarise the results of the action and distribute the summary;
- extract a part (e.g. audio or video files) of, divide into parts or compile the results of the action.
- prepare derivative works of the results of the action; translate in all official languages of EU;
- authorise or sub-licence the modes of exploitation set out in points above to third parties;

ARTICLE 12 – OBLIGATION TO CONCLUDE AN INTERNAL CO-OPERATION AGREEMENT

Not applicable.

ARTICLE 13 - INAPPLICABILITY OF THE NO-PROFIT PRINCIPLE

Not applicable.

ARTICLE 14 - INELIGIBILITY OF VALUE ADDED TAX

By way of derogation from point (h) of Article II.19.2, amounts of value added tax (VAT) paid are not eligible *[under the Agreement] [for the following [beneficiary] [beneficiaries]: [name of beneficiary(ies) concerned] [and] [for the following activities as described in Annex I: […]].]*

ARTICLE 15 - SPECIAL PROVISIONS ON ELIGIBLE COSTS

Not applicable.

ARTICLE 16 – WAIVING OF THE OBLIGATION TO PROVIDE CERTIFICATES ON THE FINANCIAL STATEMENTS

Not applicable.

ARTICLE 17 - FINANCIAL SUPPORT TO THIRD PARTIES

Article II.11 is applicable.

ARTICLE 18 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING

The following *[beneficiary][beneficiaries]* shall not receive EU funding:

- *[name of beneficiary concerned];*
- *[idem for each beneficiary not receiving EU funding]*.

The costs *[it][they]* incur*[s]* shall not be taken into consideration for determining the final amount of the grant in accordance with Article II.25.

Articles 3, 4, 5, 10, 13, 14, 15, 16, 17, II.9, II.10, II.11, II.13, II.19, II.20, II.21, II.22, II.23.2.1 and II.23.2.2 (b), (c), (d) and (e), II.24 and II.26 shall not apply to *[that beneficiary][those beneficiaries]*.

In addition, *[it][they]* shall not be subject to financial audits and checks referred to in Article II.27.

ARTICLE 19 – SETTLEMENT OF DISPUTES WITH NON EU BENEFICIARIES

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 Commission and/or the non EU beneficiary may bring before the Belgian Courts any dispute between the Commission 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 Commission 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.

ARTICLE 20 – BENEFICIARIES WHICH ARE INTERNATIONAL ORGANISATIONS

Not applicable.

ARTICLE 21 – JOINT AND SEVERAL FINANCIAL LIABILITY FOR RECOVERIES

The Commission may hold the beneficiaries jointly and severally liable for any amount due to the Commission by any one of them, including for interest on late payment if any, in accordance with Article II.26.3(c).

The amount to be repaid by the beneficiary held liable shall however not exceed the maximum amount of the grant set out in Article 3.

SIGNATURES

Option 1 for signing:

For the coordinator
[*function*/forename/surname]
[signature]
Done at [place], [date]

For the European Commission
[*function*/forename/surname]
[signature]
Done at [place], [date]

In *[duplicate][[…] original copies*] in English

Option 1bis for signing (electronic signature):

For the coordinator
[forename/surname]
[electronic signature]
Done in English on [electronic time stamp]

For the European Commission
[*function*/forename/surname]
[electronic signature]
Done in English on [electronic time stamp]

Option 2 for signing:

For the beneficiary […]
[*function*/forename/surname]
[signature]
Done at [place], [date]

For the European Commission
[*function*/forename/surname]
[signature]
Done at [place], [date]

For the beneficiary […]
[*function*/forename/surname]
[signature]
Done at [place], [date]

[idem for each beneficiary]

In *[duplicate][[…] original copies*] in English

Option 2bis for signing (electronic signature):

For the beneficiary […]
[forename/surname]
[electronic signature]
Done in English on [electronic time stamp]

For the European Commission
[*function*/forename/surname]
[electronic signature]
Done in English on [electronic time stamps]

For the beneficiary […]
[forename/surname]

[electronic signature]
Done in English on [electronic time stamp]

[idem for each beneficiary]

ANNEX I

DESCRIPTION OF THE ACTION

ARTICLE I.1 – IMPLEMENTATION OF THE ACTION

The action is a Programme Support Action in the meaning of Article 5(2)(a) and 7(2)(j) of Regulation (EU) No 1316/2013 establishing the Connecting Europe Facility the Commission Implementing Decision C(2014)1921 of 26.3.2014 establishing a Multi-Annual Work Programme for financial assistance in the field of Connecting Europe Facility (CEF) - Transport sector for the period 2014-2020, as last amended.
This Programme Support Action aims at the improvement of the safety culture in the European rail sector..

Title of the action : "Twinning II - Enhancing the cooperation between Railway Stakeholders for improving safety culture"

ARTICLE I.2 – LOCATION OF THE ACTION

I.2.1 Member State(s): *[…]*

I.2.2 Region(s) (using the NUTS2 nomenclature): *[…] [not applicable*]

I.2.3 Third country(ies): *[…] [not applicable*]

ARTICLE I.3 – SCOPE AND OBJECTIVES OF THE ACTION

[insert below a summary of the action including the main scope, goals and objectives of the action (e.g. see relevant text in the application form)]

I.3.1 Objectives of the action

[…]

I.3.2 Scope and expected results of the action

[…]

ARTICLE I.4 – ACTIVITIES

I.4.1 Activities timetable

Activity number	Activity title	Indicative start date	Indicative end date	Milestone number
1	[…]	[…]	[…]	[…]
N	[…]	[…]	[…]	[…]

I.4.2 Activities description

[insert a description of the foreseen tasks to be implemented under each activity (using the same subdivision into parts as listed in Article I.4.1), on the basis of the information provided in the application form]

Activity 1: [title of activity 1]

[detailed description of activity 1, and where relevant its sub-activities]

Activity N: [title of activity N]

[detailed description of activity N, and where relevant its sub-activities]

I.4.3 Sustainability of the action's achievements

[…]

ARTICLE I.5 – MILESTONES AND MEANS OF VERIFICATION

Milestone number	Milestone description	Indicative completion date	Means of verification
1	[…]	[…]	[…]
N	[…]	[…]	[…]

ANNEX II

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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 action 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 under applicable EU, international and national law;

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

II.1.2 General obligations and role of each beneficiary

Each beneficiary shall:

(a) inform the coordinator immediately of any events or circumstances likely to affect or delay the implementation of the action of which the beneficiary is aware;

(b) inform the coordinator 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 coordinator:

(i) the data needed to draw up the reports, financial statements and other documents provided for in the Agreement;

(ii) all the necessary documents in the event of audits, checks or evaluation in accordance with Article II.27*;*

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

II.1.3 General obligations and role of the coordinator

The coordinator shall:

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

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

(i) immediately provide the Commission 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 events or circumstances likely to affect or delay the implementation of the action, of which the coordinator is aware;

(ii) bear responsibility for supplying all documents and information to the Commission which may be required under the Agreement, except where provided otherwise in the Agreement; this includes responsibility for submitting the deliverables identified in Annex I, in accordance with the timing and conditions set out in it; where information is required from the other beneficiaries, the coordinator shall bear responsibility for obtaining and verifying this information before passing it on to the Commission;

(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 without unjustified delay;]

(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.

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

ARTICLE II.2 – COMMUNICATIONS BETWEEN THE PARTIES

II.2.1 Form and means of communications

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

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

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

II.2.2 Date of communications

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

Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in Article 6. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in Article 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 Commission using the postal services is considered to have been received by the Commission on the date on which it is registered by the department identified in Article 6.2.

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

ARTICLE II.3 – LIABILITY FOR DAMAGES

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

II.3.2 Except in cases of force majeure, the beneficiaries shall compensate the Commission for any damage sustained by it as a result of the implementation of the action or because the action 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 Commission, in writing, without delay. The beneficiaries shall immediately take all the necessary steps to rectify this situation. The Commission 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 Commission 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 Commission in writing.

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

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

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

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

ARTICLE II.6 – PROCESSING OF PERSONAL DATA

II.6.1 Processing of personal data by the Commission

Any personal data included in the Agreement must be processed by the Commission in accordance with Regulation (EU) No 2018/1725.2

Such data shall be processed by the data controller identified in Article 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 6.1.

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

[2] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

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 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 Commission;

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

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

ARTICLE II.7 – VISIBILITY OF UNION FUNDING

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

Unless the Commission requests or agrees otherwise, any communication or publication related to the action, made by the beneficiaries jointly or individually, including at

conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, etc.), shall indicate that the action has received funding from the Union and shall display the European Union emblem.

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

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

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the beneficiaries are exempted from the obligation to obtain prior permission from the Commission to use the European Union emblem.

II.7.2 Disclaimers excluding Commission responsibility

Any communication or publication related to the action, 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 Commission 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

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

II.8.2 Pre-existing industrial and intellectual property rights

Pre-existing material is any materials, document, technology or know-how which exists prior to the beneficiary using it for the production of a result in the implementation of the action. Pre-existing right is any industrial and intellectual property right on pre-existing material; it may consist in a right of ownership, a licence right and/or a right of use belonging to the beneficiary or any other third parties.

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

(a) establish a list specifying all pre-existing rights included in those results; and

(b) provide this list to the Commission at the latest with the request for payment of the balance.

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

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

The beneficiaries grant the Commission the right to use the results of the action for the following purposes:

(a) for its own purposes, and in particular, to make available to persons working for the Commission, Union institutions, Union agencies and bodies, and to Member States' institutions, as well as to copy and reproduce in whole or in part and in an unlimited number of copies;

(b) reproduction: the right to authorise direct or indirect, temporary or permanent reproduction of the results by any means (mechanical, digital or other) and in any form, in whole or in part;

(c) communication to the public: the right to authorise any display performance or communication to the public, by wire or wireless means, including making the results available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them; this right also includes communication and broadcasting by cable or by satellite;

(d) distribution: the right to authorise any form of distribution of results or copies of the results to the public;

(e) adaptation: the right to modify the results;

(f) translation;

(g) the right to store and archive the results in line with the document management rules applicable to the Commission, including digitalisation or converting the format for preservation or new use purposes;

(h) where the results are documents, the right to authorise the reuse of the documents in conformity with Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents if that Decision is applicable and if the documents fall within its scope and are not excluded by any of its provisions. For the sake of this provision, the terms ‘reuse’ and ‘document’ have the meanings given to them by Decision 2011/833/EU.

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

The beneficiaries shall warrant that the Commission has the right to use any pre-existing industrial and intellectual property rights, which have been included in the results of the action. 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 action.

Information about the copyright owner shall be inserted when the result is divulged by the Commission. The copyright information shall read: "© – [*year*] – [*name of the copyright owner*]. All rights reserved. Licenced to the Commission DG Mobility and Transport under conditions.".

If the beneficiaries grant rights of use to the Commission, this does not affect their confidentiality obligations under Article II.5 or the beneficiaries' obligations under Article II.1.

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

II.9.1 Where the implementation of the action 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.

The beneficiaries shall ensure that the Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors may exercise their rights under Article II.27 also towards the contractor.

II.9.2 Beneficiaries that are 'contracting authorities' within the meaning of Directive 2014/24/EU[3] or 'contracting entities' within the meaning of Directive 2014/25/EU[4] must comply with the applicable national public procurement rules.

II.9.3 The beneficiaries shall retain sole responsibility for carrying out the action 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 Commission under the Agreement.

II.9.4 The beneficiaries shall ensure that the conditions applicable to them under Articles II.3, II.4, II.5 and II.8 are also applicable to the contractor.

II.9.5 Where, in accordance with Article 3(a), the grant takes the form of the reimbursement of eligible costs:

- If a beneficiary breaches any of its obligations under Article II.9.1, the costs related to the contract concerned shall be ineligible;

[3] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

[4] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

- If a beneficiary breaches any of its obligations under Article II.9.2, II.9.3 or II.9.4, the grant may be reduced in proportion to the seriousness of the breach of obligations.

Where, in accordance with Article 3(b), (c) or (d) the grant takes the form of a unit, lump sum or flat-rate contribution, if a beneficiary breaches any of its obligations under Article II.9.1, II.9.2, II.9.3 or II.9.4, the grant may be reduced in proportion to the seriousness of the breach of obligations.

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

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 action as described in Annex I.

II.10.2 Beneficiaries may subcontract tasks forming part of the action, provided that, in addition to the conditions specified in Article II.9.1, the following conditions are complied with:

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

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

(c) not applicable;

(d) any recourse to subcontracting, if not provided for in Annex I, is communicated by the coordinator and approved by the Commission. The Commission may grant approval:

(i) before any recourse to subcontracting, if the beneficiaries request an amendment as provided for in Article II.12; or

(ii) after recourse to subcontracting if the subcontracting:
- is specifically justified in the interim or final technical report referred to in Articles II.23.2; and
- does not entail changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants;

II.10.3 Beneficiaries acting in their capacity of contracting authorities within the meaning of of Directive 2014/24/EU or 'contracting entities' within the meaning of Directive 2014/25/EU must comply with the applicable national public procurement rules.

II.10.4 The beneficiaries shall retain sole responsibility for carrying out the action and for compliance with the provisions of the Agreement. The beneficiaries shall ensure that

any subcontract contains provisions stipulating that the subcontractor has no rights vis-à-vis the Commission under the Agreement.

II.10.5 The beneficiaries shall ensure that the conditions applicable to them under Articles II.3, II.4, II.5, II.7 and II.8 are also applicable to the subcontractor.

II.10.6 Where, in accordance with Article 3(a), the grant takes the form of the reimbursement of eligible costs:

- If a beneficiary breaches any of its obligations under Article II.10.2, the costs related to the subcontract concerned shall be ineligible;

- If a beneficiary breaches any of its obligations under Article II.10.3, II.10.4 or II.10.5, the grant may be reduced in proportion to the seriousness of the breach of obligations.

Where, in accordance with Article 3(b), (c) or (d) the grant takes the form of a unit, lump sum or flat-rate contribution if a beneficiary breaches any of its obligations under Article II.10.2, II.10.3, II.10.4 or II.10.5, the grant may be reduced in proportion to the seriousness of the breach of obligations.

ARTICLE II.11 - FINANCIAL SUPPORT TO THIRD PARTIES

II.11.1 Where the implementation of the action requires giving financial support to third parties, the beneficiaries shall give such financial support in accordance with the conditions specified in Annex I, which shall at least contain:

(a) the maximum amount of financial support, which shall not exceed EUR 60 000 for each third party except where the financial support is the primary aim of the action as specified in Annex I;

(b) the criteria for determining the exact amount of the financial support;

(c) the different types of activity that may receive financial support, on the basis of a fixed list;

(d) the definition of the persons or categories of persons which may receive financial support;

(e) the criteria for giving the financial support.

The beneficiaries shall ensure that the Commission, the Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors may exercise their rights under Article II.27 also towards the third parties receiving financial support.

II.11.2 By way of derogation from Article II.11.1, in case the financial support takes the form of a prize, the beneficiaries shall give such financial support in accordance with the conditions specified in Annex I, which shall at least contain:

(a) the conditions for participation;

(b) the award criteria;

(c) the amount of the prize;

(d) the payment arrangements.

The beneficiaries shall ensure that the Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors may exercise their rights under Article II.27 also towards the third parties receiving a prize.

II.11.3 The beneficiaries shall ensure that the conditions applicable to them under Articles II.3, II.4, II.5, II.7 and II.8 are also applicable to the third parties receiving financial support.

II.11.4 Where, in accordance with Article 3(a), the grant takes the form of the reimbursement of eligible costs:

- If a beneficiary breaches any of its obligations under Article II.11.1 or II.11.2, the costs related to the financial support shall be ineligible;

- If a beneficiary breaches any of its obligations under Article II.11.3, the grant may be reduced in proportion to the seriousness of the breach of obligations.

Where, in accordance with Article 3(b), (c) or (d) the grant takes the form of a unit, lump sum or flat-rate contribution if a beneficiary breaches any of its obligations under Article II.11.1 II.11.2 or II.11.3, the grant may be reduced in proportion to the seriousness of the breach of obligations.

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.

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 three months before the end of the period set out in Article 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 coordinator. If a change of coordinator is requested without its agreement, the request shall be jointly submitted by all other beneficiaries or shall be submitted by a beneficiary acting on behalf of all beneficiaries, and shall be accompanied by the

opinion of the coordinator or proof that this opinion has been requested in writing.]

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 Commission 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 Commission if it has accepted the assignment on the basis of a written and reasoned request to that effect made by the coordinator on behalf of the beneficiaries.]

In the absence of such an acceptance, or in the event of failure to observe the terms thereof, the assignment shall have no effect on the Commission.

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

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, implementing bodies 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 action 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 ACTION

II.15.1 Suspension of the implementation by the beneficiaries

The coordinator, on behalf of the beneficiaries, may suspend the implementation of the action or any part thereof, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*. The coordinator shall inform the Commission without delay, giving the reasons for suspension, including details about the date or period when the exceptional circumstances occurred and the expected 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 coordinator shall, once the circumstances allow resuming the implementation of the action, inform the Commission 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 Commission

II.15.2.1 Grounds for suspension

The Commission may suspend the implementation of the action or any part thereof:

(a) if the Commission 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 Commission 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;

(c) if the Commission 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;

(d) following an evaluation of the progress of the project, in particular in the event of major delays in the implementation of the action; or

(e) if the Commission does not receive all the documents required under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Directive 2009/147/EC on the

conservation of wild birds, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2000/60/EC establishing a framework for Community policy in the field of water, or any other relevant environmental legislation as listed in the application form (the section concerning compliance with Union policy on environmental protection).

II.15.2.2 Procedure for suspension

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

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

If no observations have been submitted or if, despite the observations submitted by the coordinator, the Commission decides to pursue the suspension procedure, it may suspend the implementation by formally notifying the coordinator thereof, specifying the reasons for the suspension and, in the cases referred to in points (a), (b), (d), and (e) 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 coordinator shall inform the other beneficiaries immediately. The suspension shall take effect five calendar days after the receipt of the notification by the coordinator or on a later date, where the notification so provides.

In order to resume the implementation, the beneficiaries shall endeavour to meet the notified conditions as soon as possible and shall inform the Commission 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), (j), (k), m, or (o) of Article II.16.3.1, the Commission shall, as soon as it considers that the conditions for resuming the implementation have been met or the necessary verification, including on-the-spot checks, has been carried out, formally notify the coordinator thereof and invite the coordinator to present a request for amendment of the Agreement as provided for in Article II.15.3.]

II.15.3 Effects of the suspension

If the implementation of the action 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 action shall be resumed, to extend the duration of the action and to make any other modifications that may be necessary to adapt the action to the new implementing conditions.

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

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

The right of the Commission 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 coordinator

In duly justified cases, the coordinator, on behalf of all beneficiaries, may terminate the Agreement by formally notifying the Commission 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 Commission considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinator, specifying the grounds thereof, and the Agreement shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.16.4.1. The termination takes effect on the day specified in the formal notification.]

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

In duly justified cases, the participation of any one or several beneficiaries in the Agreement may be terminated by the coordinator, acting on request of that beneficiary or those beneficiaries, or on behalf of all the other beneficiaries. When notifying such termination to the Commission, the coordinator shall include the reasons for the termination of the participation, the opinion of the beneficiary or beneficiaries the participation of which is terminated (or proof that this opinion has been requested in writing), 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, and a request for amendment as provided for in Article II.16.4.1. The notification shall be sent before the termination is due to take effect.

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

If no reasons are given or if the Commission considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinator, specifying the grounds thereof, and the participation shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article II.16.4.1. The termination takes effect on the day specified in the formal notification.]

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

II.16.3.1 The Commission may terminate the Agreement or the participation of any one or several beneficiaries participating in the action, 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 action as specified in Annex I or if a beneficiary fails to comply with another substantial obligation incumbent on it under the terms of the Agreement;

(d) in the event of *force majeure*, notified in accordance with Article II.14, or in the event of suspension by the coordinator 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 action is implemented;

(h) if the Commission 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 Commission 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;

(j) if the Commission 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;

(k) following an evaluation of the progress of the project, in particular in the event of major delays in the implementation of the action;

(l) if the action has not started within two years of the starting date set out in Article 2.2 or, for grants for studies, if the action has not started within one year of the starting date set out in Article 2.2***;***

(m) if the Commission does not receive all the documents required under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Directive 2009/147/EC on the conservation of wild birds, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2000/60/EC establishing a framework for Community policy in the field of water, or any other relevant environmental legislation as listed in the application form (the section concerning compliance with Union policy on environmental protection).

(n) Not Applicable

(o) if the Commission has sent a beneficiary*[, through the coordinator,]*[5] a formal notification asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (f), (i) or (j) and that beneficiary has failed to request an amendment ending the participation of the entity and reallocating its tasks.

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.

For the purposes of points (i) and (j), "fraud" shall mean any intentional act or omission affecting the Union's financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents, to non-disclosure of information in violation of a specific obligation.

For the purposes of point (i), "substantial error" shall mean any infringement of a provision of an agreement resulting from an act or omission, which causes or might cause a loss to the Union's budget.

For the purposes of points (i) and (j), "irregularity" shall mean any infringement of a provision of Union law resulting from an act or omission by a beneficiary, which has or would have the effect of prejudicing the Union's budget.

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

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

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

In the cases referred to in points (a), (b), (c), (e) and (k) 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), (i), (j), (l), (m), and (o) of Article II.16.3.1, the termination shall take effect on the day following the date on which the

[5] Text if there is a coordinator

formal notification was received by the coordinator.]

II.16.4 Effects of termination

II.16.4.1 Where the Agreement is terminated, payments by the Commission 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 action on the date when the termination takes effect. Costs relating to current commitments, which are not due for execution until after the termination, shall not be taken into account. The coordinator shall have 60 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 Commission 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 Commission 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 Commission.

Where the participation of a beneficiary is terminated, the coordinator must submit a request for amendment including:

(i) a proposal to reallocate the tasks of the beneficiary or beneficiaries concerned by the termination; and
(ii) if necessary, the addition of one or more new beneficiaries to succeed the beneficiary or beneficiaries concerned in all their rights and obligations under the Agreement.

If the Commission terminates the participation of a beneficiary, the coordinator must submit the request for amendment within 60 calendar days from the day on which the termination takes effect. If the coordinator terminates the participation of a beneficiary, the request for amendment must be included in the formal notification of termination referred to in Article II.16.2.

If termination takes effect after the end of the implementation period, no request for amendment must be provided unless the beneficiary concerned is the coordinator. In this case, the request for amendment must propose a new coordinator.

If the request for amendment is rejected by the Commission, the Agreement may be terminated in accordance with Article II.16.3.1 (b). The request for amendment may be rejected if it calls into question the decision awarding the grant or is contrary to the equal treatment of applicants.

The beneficiary concerned shall submit to the coordinator a technical report and, where applicable, a financial statement covering the period from the end of the last reporting period according to Article 4.1.1 for which a report has been submitted to the Commission 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 coordinator to draw up the corresponding payment request. Only those costs incurred by the beneficiary concerned up to the date when termination of its participation takes effect shall be reimbursed or covered by the grant. Costs relating to current commitments, which were not due for execution until after the termination, shall not be taken into account. The request for payment for the beneficiary concerned shall be included in the next payment request submitted by the coordinator in accordance with the schedule laid down in Article 4.

Where the Commission, in accordance with point (c) of Article II.16.3.1, is terminating the Agreement on the grounds that the coordinator has failed to produce the request for payment and, after a reminder, has still not complied with this obligation within the deadline set out in Article 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 coordinator to produce a request for payment of the balance in accordance with Article II.23.2; and

(b) the Commission 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 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 coordinator 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 Commission on the grounds set out in points (c), (f), (i), (j), (k), (m), and (o) of Article II.16.3.1, the Commission 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 coordinator, and, where relevant, the beneficiaries concerned, to submit their observations.

After termination, the concerned beneficiary’s obligations continue to apply, in particular those under Articles 4, II.5, II.7, II.8, II.13, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions.]

II.16.4.2 Where the Commission, in accordance with point (l) of Article II.16.3.1, is terminating the Agreement on the ground that the action has not started by the set deadline, the following shall apply:

(a) the coordinator shall not produce a request for payment of the balance; and

(b) the final amount of the grant shall be EUR 0 (zero euro). The Commission shall recover any amounts unduly paid in accordance with Article II.26.

II.16.4.3 Neither party shall be entitled to claim compensation on account of a termination by the other party.

ARTICLE II.17 – ADMINISTRATIVE SANCTIONS

Not applicable.

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 Commission may adopt an enforceable decision to impose pecuniary obligations on persons other than States. An action may be brought against such decision before the General Court of the European Union pursuant to Article 263 TFEU.

PART B – FINANCIAL PROVISIONS

ARTICLE II.19 – ELIGIBLE COSTS

II.19.1 Conditions for the eligibility of costs

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

(a) they are incurred in the period set out in Article 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.

Costs of contracts for goods, works or services or of subcontracts are considered to be incurred when the contract or subcontract (or a part of it) is executed, i.e. when the goods, works or services (including studies) are supplied, delivered or provided;

(b) they are indicated in the estimated budget of the action set out in Annex III;

(c) they are incurred in connection with the action as described in Annex I and are necessary for its implementation; in particular, for the costs of contracts for goods, the goods are supplied in a Member State or in any other countries where the action is implemented as described in Annex I; for the costs of contracts for works, the works are delivered in a Member State or in any other countries where the action is implemented as described in Annex I; for the costs of contracts for services (including studies), the services provided concern a Member State or any other countries where the action is implemented as described in Annex I;

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

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 working under an employment contract with the beneficiary or an equivalent appointing act and assigned to the action, 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; those costs may also include additional remunerations, including payments on the basis of supplementary contracts regardless of the nature of those contracts, provided that they are paid in a consistent manner whenever the same kind of work or expertise is required, independently from the source of funding used;

The costs of natural persons working under a contract with the 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 staff performing similar tasks under an employment contract with the beneficiary;

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

(c) costs of consumables and supplies, provided that they are purchased in accordance with the first subparagraph of Article II.9.1 and are directly assigned to the action;

(d) 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 the first subparagraph of Article II.9.1;

(e) costs entailed by service contracts, including costs of environmental studies on the protection of the environment and on compliance with the relevant Union law, provided that the corresponding services are purchased in accordance with the first subparagraph of Article II.9.1 and costs entailed by subcontracts within the meaning of Article II.10, provided that the conditions laid down in Article II.10.2 are met;

(f) costs of financial support to third parties within the meaning of Article II.11, provided that the conditions laid down in Article II.11.1 or II.11.2 are met;

(g) duties, taxes and charges paid by the beneficiary, notably non-deductible value added tax (VAT), provided that they are included in eligible direct costs, and unless specified otherwise in the Agreement.]

II.19.3 Indirect costs

"Indirect costs" of the action are those costs which are not specific costs directly linked to the implementation of the action and can therefore not be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs.

Eligible indirect costs shall be declared on the basis of a flat rate of 7% of the total eligible direct costs.

II.19.4 Ineligible costs

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

(a) return on capital;

(b) debt and debt service charges;

(c) provisions for losses or debts;

(d) interest owed;

(e) doubtful debts;

(f) exchange losses;

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

(h) costs declared by the beneficiary in the framework of another action receiving a grant financed from the Union budget (including grants awarded by a Member State and financed from the Union budget and grants awarded by other bodies than the Commission for the purpose of implementing the Union budget); in particular, indirect costs shall not be eligible under a grant for an action 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;

(j) excessive or reckless expenditure;

(k) deductible VAT;]

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

II.20.1 Reimbursement of actual costs

Where, in accordance with [*Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, 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 action.

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

Where, in accordance with [Article 3(a)(ii) or (b)] *[point (ii) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(b)*], the grant takes the form of the reimbursement of unit costs or of a unit contribution, the beneficiary must declare as eligible costs or as requested contribution the amount obtained by multiplying the amount per unit specified in [Article 3(a)(ii) or (b)] *[point (ii) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(b)*]by the actual number of units used or produced.

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 number of units declared. However, the beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, notably accounting statements, to prove the amount declared per unit.

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

Where, in accordance with *[Article 3(a)(iii) or (c)] [point (iii) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(c)]*, the grant takes the form of the reimbursement of lump sum costs or of a lump sum contribution, the beneficiary must declare as eligible costs or as requested contribution the global amount specified in [*Article 3(a)(iii) or (c)*] *[point (iii) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(c)]*, subject to the proper implementation of the corresponding tasks or part of the action as described in Annex I.

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 proper implementation. However, the beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, notably accounting statements, to prove the amount declared as lump sum.

II.20.4 Reimbursement of pre-determined flat-rate costs or pre-determined flat-rate contribution

Where, in accordance with *[Article 3(a)(iv) or (d)] [point (iv) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(d),*, the grant takes the form of the reimbursement of flat-rate costs or of a flat-rate contribution, the beneficiary must declare as eligible costs or as requested contribution the amount obtained by applying the flat rate specified in [*Article 3(a)(iv) or (d)] [point (iv) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […] or Article 3(d)]*.

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 eligible costs or requested contribution to which the flat rate applies. However, the beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, notably accounting statements, for the flat rate applied.

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

Where, in accordance with [*Article 3(a)(v)] [point (v) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, the grant takes the form of the reimbursement of unit costs declared on the basis of the beneficiary's usual cost accounting practices, the beneficiary must declare as eligible costs the amount obtained by multiplying the amount per unit calculated in accordance with its usual cost accounting practices by the actual number of units used or produced. 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 number of units declared.

Where, in accordance with [*Article 3(a)(v)] [point (v) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, the grant takes the form of the reimbursement of lump sum costs declared on the basis of the beneficiary's usual cost accounting practices, the beneficiary must declare as eligible costs the global amount calculated in accordance with its usual cost accounting practices, subject to the proper implementation of the corresponding tasks or part of the action. 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 proper implementation.

Where, in accordance with [*Article 3(a)(v)] [point (v) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, the grant takes the form of the reimbursement of flat-rate costs declared on the basis of the beneficiary's usual cost accounting practices, the beneficiary must declare as eligible costs the amount obtained by applying the flat rate calculated in accordance with its usual cost accounting practices. 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 eligible costs to which the flat rate applies.

In all three cases provided for in the first, second and third subparagraphs, the

beneficiary does not need to identify the actual eligible costs covered, but it must ensure that the cost accounting practices used for the purpose of declaring eligible costs are in compliance with the following conditions:

(a) the cost accounting practices used constitute its usual cost accounting practices and are applied in a consistent manner, based on objective criteria independent from the source of funding;

(b) the costs declared can be directly reconciled with the amounts recorded in its general accounts; and

(c) the categories of costs used for the purpose of determining the costs declared are exclusive of any ineligible cost or costs covered by other forms of grant in accordance with Article 3.

ARTICLE II.21 – ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE BENEFICIARIES AND OF IMPLEMENTING BODIES DESIGNATED BY THE BENEFICIARIES

II.21.1 Where the Special Conditions contain a provision on entities affiliated to the beneficiaries or a provision on implementing bodies, costs incurred by such an entity or body 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 to which the entity is affiliated or by which the implementing body is designated ensures that the Commission, the Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors may exercise their rights under Article II.27 also towards the entity or body.

II.21.2 The beneficiary to which the entity is affiliated or by which the implementing body is designated shall ensure that the conditions applicable to it under Articles II.3, II.4, II.5, II.7, II.9 and II.10 are also applicable to the entity or body.

II.21.3 The beneficiaries shall retain sole responsibility for carrying out the action and for compliance with the provisions of the Agreement. The beneficiaries shall ensure that any agreement or contract with an affiliated entity or implementing body contains provisions stipulating that the affiliated entity or implementing body has no right vis-à-vis the Commission under the Agreement.

ARTICLE II.22 – BUDGET TRANSFERS

The estimated budget set out in *Table 2 of* Annex III may be adjusted by transfers of amounts between beneficiaries and between budget categories, without this adjustment being considered as an amendment of the Agreement within the meaning of Article II.12, provided that the action is implemented as described in Annex I.

The beneficiaries may not however adjust amounts which, in accordance with *[Article 3(a)(iii) or (c)] [point (iii) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]* , take the form of lump sums.]

By way of derogation from the first subparagraph, should beneficiaries want to modify the value of the estimated CEF 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 coordinator shall request an amendment in accordance to Article II.12.]

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

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

Not applicable.

II.23.1.1 The coordinator shall submit a Progress Report no later than 30 days following the end of each reporting period, except the last reporting period.

The Progress Report could be drawn up in accordance with the template provided by the Commission, and at any rate should include the following:

(a) the Agreement number, the action number, the transport mode and the project of common interest it relates to;

(b) the name and contact details of the author of the Progress Report;

(c) information on the progress achieved by the action;

(d) the updated indicative breakdown by activity of the estimated eligible costs of the action referred to in Annex III, including:

i. the estimated eligible costs incurred for the implementation of the action during the previous reporting periods,

ii. the updated estimated eligible costs to be incurred for the implementation of the action during the on-going reporting period and for each of the next reporting periods;

(e) the financing needs per reporting period calculated as the amount obtained by application of the reimbursement rate(s) set out in Article 3 to the eligible costs referred to in indents (i) and (ii) of point (d);

(f) the cumulated financing needs until the end of the on-going reporting period;

(g) information on the contracts awarded for the implementation of the action and on compliance with the requirements set out in Articles II.9 and II.10;

(h) environmental information;

(i) information about measures taken to publicise the action;

(j) for beneficiaries established in the European Union, the certification by the Member State in which the beneficiary is established that the information provided in the Progress Report is full, reliable and true; in exceptional cases,

at the request of the beneficiary, the certification may be provided by the Member State in which the action is implemented;

(k) in the first Progress Report, information on implementation schedule (such as critical path, key performance rates and risk analysis), governance and monitoring of the action (such as organisational structure, internal coordination, communication and reporting, and decision making process), and other relevant administrative provisions (such as quality controls and audits);

(l) in subsequent Progress Reports, information on any modifications and, if applicable, on the progress of implementation of the arrangements referred to in point (k).

II.23.1.2 Where Article 4.1 provides for further pre-financing payments, the coordinator may submit a request for a further pre-financing payment together with the Progress Report referred to in Article II.23.1.1.

The request for a further pre-financing payment shall be accompanied by:

(a) a statement on the amount of the previous pre-financing payments used to cover costs of the action;

(b) where required by Article 4.1, a financial guarantee.*:;*

(c) the method for allocating the amounts to be paid to each beneficiary.]]

II.23.2.1 Interim reports - Requests for interim payments and supporting documents

~~*[Option for actions without interim payment:*~~
~~Not applicable.]~~

The coordinator shall submit a request for interim payment at least every two reporting periods. The request for interim payment shall be submitted within 8 months following the end of the reporting period.

The request for interim payment shall be accompanied by the following documents:

(a) an interim financial statement drawn up in accordance with Annex VI and containing a consolidated statement of the eligible costs incurred for the implementation of the action during the reporting period or the two reporting periods covered as well as a breakdown of the eligible costs incurred by each beneficiary, its affiliated entities and its implementing bodies;

(b) unless the Special Conditions provide otherwise, a certificate on the financial statements and underlying accounts ('certificate on the financial statements') for each beneficiary, each affiliated entity and each implementing body, if:

(i) the cumulative amount of payments the beneficiary requests as reimbursement of actual costs as referred to in *[Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]* (and for which no certificate has yet been submitted) is EUR 325 000 or more;

(ii) the maximum grant amount indicated for that beneficiary, its affiliated entities and implementing bodies in the estimated budget as reimbursement of actual costs is EUR 750 000 or more.

This certificate shall be produced by an approved auditor or, in case of public bodies, by a competent and independent public officer and drawn up in accordance with Annex VII. It shall certify that the costs declared in the interim financial statement by the beneficiary concerned, its affiliated entities or its implementing bodies for the categories of costs reimbursed on the basis of actual costs are real, accurately recorded and eligible in accordance with the Agreement[.][;]

(c) the method for allocating the amounts to be paid to each beneficiary.]

The coordinator shall certify that the information provided in the request for interim payment is full, reliable and true. It shall also certify that the costs declared in the interim financial statement are real and 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**.**]

II.23.2.2 Final report - Request for payment of the balance and supporting documents

The coordinator shall submit a request for payment of the balance within 90 days following the completion date of the action as referred to in Article 2.2.

The request for payment of the balance shall be accompanied by the following documents:

(a) the final report drawn up in accordance with Annex V and containing the following:

(i) the Agreement number, the action number, the transport mode and the project of common interest it relates to;

(ii) the name and contact details of the author of the report;

(iii) the objectives of the action (if any deviation is reported);

(iv) technical information on how the action was implemented and fulfilled its objectives;

(v) information on the contracts awarded for the implementation of the action and on compliance with the requirements set out in Articles II.9 and II.10;

(vi) environmental information;

(vii) information about measures taken to publicise the action;

(viii) information on other sources of Union funds (CEF, ERDF, Cohesion Fund, H2020, TEN-T, EIPA, etc.) that have been used for the global project (e.g. previous or subsequent phases not covered by this Agreement)*[.]*

(ix) where applicable, the update of the CBCA decision taken for the project of common interest.]

(b) the final financial statement drawn up in accordance with Annex VI and containing:

(i) a consolidated statement of the eligible costs incurred for the implementation of the action during the last reporting period or the last two reporting periods since the last interim financial statement as well as a breakdown of the eligible costs incurred by each beneficiary, its affiliated entities and its implementing bodies;

(ii) a summary financial statement ("summary financial statement"); this statement must include a consolidated financial statement and a breakdown of the amounts declared or requested by each beneficiary, its affiliated entities and its implementing bodies, aggregating the financial statements already submitted previously and indicating the receipts referred to in Article II.25.3.2 for each beneficiary, its affiliated entities and its implementing bodies; it must be drawn up in accordance with Annex VI.

(c) for beneficiaries established in the European Union, the certification by the Member State in which the beneficiary is established that i) the information provided is full, reliable and true and ii) the costs declared in the final financial statement are real and eligible in accordance with this Agreement; in exceptional cases, at the request of the beneficiary, the certification may be provided by the Member State in which the action is implemented;

(d) unless the Special Conditions provide otherwise, a certificate on the financial statements and underlying accounts ('certificate on the financial statements') for each beneficiary, each affiliated entity and each implementing body, if:

(i) the cumulative amount of payments the beneficiary requests as reimbursement of actual costs as referred to in *[Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]* (and for which no certificate has yet been submitted) is EUR 325 000 or more;

(ii) the maximum grant amount indicated for that beneficiary, its affiliated entities and implementing bodies in the estimated budget as reimbursement of actual costs is EUR 750 000 or more;

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 the beneficiary concerned, its affiliated entities and its implementing bodies for the categories of costs reimbursed on the basis of actual costs are real, accurately recorded and eligible in accordance with the Agreement. It shall also certify that all the receipts referred to in Article II.25.3.2 have been declared[.]

(e) *:* the method for allocating the amounts to be paid to each beneficiary.]

The coordinator shall certify that the information provided in the request for payment of the balance is complete, 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, 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 a beneficiary has failed to submit a request for interim payment or payment of the balance accompanied by the documents referred to above by the deadline set out in Article II.23.2 and where the beneficiary still fails to submit such a request within 60 days following a written reminder sent by the Commission, the Commission 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.16.4.1.

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 average of the daily exchange rates published in the C series of *Official Journal of the European Union*, determined over the corresponding reporting period. Where no daily euro exchange rate is published in the *Official Journal of the European Union* for the currency in question, conversion shall be made at the average of the monthly accounting rates established by the Commission and published on its website (http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm), determined over the corresponding reporting period.

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

II.24.1.1 The pre-financing is intended to provide the beneficiaries with a float. It remains the property of the Union until it is cleared against the payment of the balance to the coordinator.

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

(a) it is provided by an approved bank or an approved financial institution. The guarantee shall be denominated in euros. Where a beneficiary is established in a third country, the Commission may agree that a bank or a financial institution established in that third country may provide the guarantee if it considered that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in

a Member State. At the request of the beneficiary and acceptance by the Commission, the financial guarantee may be replaced by a joint and several guarantee by a third party;

(b) the guarantor stands as first-call guarantor and does not require the Commission 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 the payment of the balance by the Commission and, in case the payment of the balance is made in the form of a debit note, three months after the debit note is notified to the coordinator. The Commission shall release the guarantee within the following month.

II.24.1.2 Without prejudice to Article II.24.5, where Article 4.1 provides for a first pre-financing payment upon entry into force of the Agreement or following a later date, the Commission shall pay to the beneficiary within 30 days following that date or, where required by Article 4.1, following receipt of the financial guarantee.

II.24.1.1 The pre-financing is intended to provide the beneficiaries with a float. It remains the property of the Union until it is cleared against interim payments or payment of the balance to the coordinator.

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

(a) it is provided by an approved bank or an approved financial institution. The guarantee shall be denominated in euros. Where a beneficiary is established in a third country, the Commission may agree that a bank or a financial institution established in that third country may provide the guarantee if it considered that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in a Member State. At the request of the coordinator and acceptance by the Commission, the financial guarantee may be replaced by a joint and several guarantee by a third party;

(b) the guarantor stands as first-call guarantor and does not require the Commission 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 interim payments or payment of the balance by the Commission and, in case the payment of the balance is made in the form of a debit note, three months after the debit note is notified to the coordinator. The Commission shall release the guarantee within the following month.

II.24.1.2 First pre-financing payment

Without prejudice to Article II.24.5, where Article 4.1 provides for a first pre-financing payment upon entry into force of the Agreement or following a later date, the Commission shall pay to the coordinator within 30 days following that date or, where required by Article 4.1, following receipt of the request for pre-financing payment or of the financial guarantee, whichever is the latest.]

II.24.2 Interim payments

Interim payments are intended to reimburse the eligible costs incurred in implementing the action during the corresponding reporting periods.

Without prejudice to Articles II.24.4 and II.24.5, on receipt of the documents referred to in Article II.23.2, the Commission shall pay to the coordinator the amount due as interim payment within the time limit specified in Article 4.2.]

This amount shall be determined following approval of the request for interim payment and the accompanying documents and of the PROGRESS REPORT for the reporting period or the two reporting periods covered. Approval of those documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contain.

The amount due as interim payment shall be determined as follows:

(a) the following amounts, which depend on the form of the grant, shall be added:

(i) where, in accordance with Article 3(a), the grant takes the form of the reimbursement of eligible costs, the amount obtained by application of the reimbursement rate(s) specified in that Article to the eligible costs of the action approved by the Commission for the concerned reporting period(s) and the corresponding categories of costs, beneficiaries, affiliated entities and implementing bodies;

(ii) where, in accordance with Article 3(b), the grant takes the form of a unit contribution, the amount obtained by multiplying the unit contribution specified in that Article by the actual number of units approved by the Commission for the concerned reporting period(s) and for the corresponding beneficiaries, affiliated entities and implementing bodies;

(iii) where, in accordance with Article 3(c), the grant takes the form of a lump sum contribution, the lump sum specified in that Article for the corresponding beneficiaries, affiliated entities and implementing bodies, subject to approval by the Commission of the proper implementation during the concerned reporting period(s) of the corresponding tasks or part of the action in accordance with Annex I;

(iv) where, in accordance with Article 3(d), the grant takes the form of a flat-rate contribution, the amount obtained by applying the flat rate referred to in that Article to the eligible costs or to the contribution accepted by the Commission for the concerned reporting period(s) and the corresponding beneficiaries, affiliated entities and implementing bodies.

(b) the interim payment shall clear 100% of the pre-financing payments already made for the reporting periods covered by the request for interim payment or previous interim payments and which have not been cleared against previous interim payments. The amount of the pre-financing payments to be cleared shall be deducted from the amount obtained in accordance with point (a);

(c) the amount obtained in accordance with points (a) and (b) shall be limited to the difference between the ceiling for pre-financing and interim payments set out in Article 4.1.3 and the total amount of the pre-financing and interim payments already made.]

II.24.3 Payment of the balance

The payment of the balance, which may not be repeated, is intended to reimburse or cover after the end of the period set out in Article 2.2 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.24.4 and II.24.5, on receipt of the documents referred to in Article II.23.2, the Commission shall pay the amount due as the balance within the time limit specified in Article 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 they contain.

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.24.4 Suspension of the time limit for payment

The Commission may suspend the time limit for payment specified in Article 4.2 *and II.24.1.3],* at any time by formally notifying the beneficiary concerned 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 beneficiary concerned 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 Commission. 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 beneficiary concerned may request a decision by the Commission 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 Commission reserves the right to terminate the Agreement or the participation of the beneficiary concerned in accordance with Article II.16.3.1(c), with the effects described in Article II.16.4.

II.24.5 Suspension of payments

II.24.5.1 The Commission 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 Commission 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 Commission 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;

(c) if the Commission 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;

(d) following an evaluation of the progress of the project, in particular in the event of major delays in the implementation of the action; or

(e) if the Commission does not receive all the documents required under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Directive 2009/147/EC on the conservation of

wild birds, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2000/60/EC establishing a framework for Community policy in the field of water, or any other relevant environmental legislation as listed in the application form (the section concerning compliance with Union policy on environmental protection).

II.24.5.2 Before suspending payments, the Commission shall formally notify the coordinator of its intention to suspend payments, specifying the reasons thereof and, in the cases referred to in points (a), (b)*[,][and]* (d)*[,][and] [(e)] [and (f)]* of Article II.24.5.1, the necessary conditions for resuming payments. The coordinator shall be invited to make any observations on behalf of all beneficiaries within 30 calendar days from receipt of this notification.

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

If no observations have been submitted or if, despite the observations submitted by the coordinator, the Commission decides to pursue the procedure of payment suspension, it may suspend payments by formally notifying the coordinator, specifying the reasons for the suspension and, in the cases referred to in points (a), (b)*[,][and]* (d)*[,][and] [(e)] [and (f)]* of Article II.24.5.1, the definitive conditions for resuming payments or, in the case referred to in point (c) of Article II.24.5.1, the indicative date of completion of the necessary verification.

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

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

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

During the period of suspension of payments and without prejudice to the right to suspend the implementation of the action 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 coordinator is not entitled to submit any requests for payments 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 action.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments or may be included in

the first request for payment due following resumption of payments in accordance with the schedule laid down in Article 4.1.]

II.24.6 Notification of amounts due

The Commission 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.24.7 Interest on late payment

On expiry of the time limits for payment specified in Articles 4.2 and II.24.1, and without prejudice to Articles II.24.4 and II.24.5, 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.24.4 or of payment by the Commission in accordance with Article II.24.5 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.24.9. 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 only upon request submitted by the coordinator within two months of the late payment.]

[

II.24.8 Currency for payments

Payments by the Commission shall be made in euro.

II.24.9 Date of payment

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

II.24.10 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.24.11 Payments to the coordinator

The Commission shall make all payments to the coordinator. Payments to the coordinator shall discharge the Commission 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 for each beneficiary as follows:

(a) where, in accordance with Article 3(a), the grant to the beneficiary, its affiliated entities or its implementing bodies takes the form of the reimbursement of eligible costs, the amount obtained by application of the reimbursement rate(s) specified in that Article to the eligible costs approved by the Commission for the corresponding categories of costs and activities;

(b) where, in accordance with Article 3(b), the grant to the beneficiary, its affiliated entities or its implementing bodies takes the form of a unit contribution, the amount obtained by multiplying the unit contribution specified in that Article by the actual number of units approved by the Commission;

(c) where, in accordance with Article 3(c), the grant to the beneficiary, its affiliated entities or its implementing bodies takes the form of a lump sum contribution, the lump sum specified in that Article, subject to approval by the Commission of the proper implementation of the corresponding tasks or part of the action in accordance with Annex I;

(d) where, in accordance with Article 3(d), the grant to the beneficiary, its affiliated entities or its implementing bodies takes the form of a flat-rate contribution, the amount obtained by applying the flat rate referred to in that Article to the eligible costs or to the contribution accepted by the Commission.

Where Article 3 provides for a combination of different forms of grant for the beneficiary, its affiliated entities or its implementing bodies, these amounts shall be added.

II.25.2 Maximum amount

The total amount paid by the Commission to a beneficiary may in no circumstances exceed the maximum amount of the grant for that beneficiary specified in Article 3.

Where the amount determined in accordance with Article II.25.1 for a beneficiary exceeds this maximum amount, the final amount of the grant for that beneficiary shall be limited to the maximum amount specified in Article 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. For each beneficiary, "profit" shall mean a surplus of its receipts over its eligible costs.

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

(a) income generated by its activities under the Agreement; or

(b) financial contributions specifically assigned by the donors to the financing of its eligible costs reimbursed by the Commission in accordance with [*Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*.

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 2.2.

II.25.3.4 The eligible costs to be taken into account are the eligible costs approved by the Commission for the categories of costs reimbursed in accordance with Article 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 a beneficiary, the profit shall be deducted in proportion to the final rate of reimbursement of its actual

eligible costs approved by the Commission for the categories of costs referred to in [*Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*.. This final rate shall be calculated on the basis of the final amount of the grant for the beneficiary in the form referred to in *[Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, as determined in accordance with Articles II.25.1 and II.25.2.

II.25.4 Reduction for poor, partial or late implementation, or breach of contractual obligations

If the action is not implemented properly in accordance with Annex I, or if a beneficiary fails to comply with any other obligations under this Agreement, the Commission may reduce the grant amount per beneficiary set out in Article 3 in proportion to the improper implementation of the action or to the seriousness of the breach of obligations.

This includes the case where the Commission does not receive all the documents required under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Directive 2009/147/EC on the conservation of wild birds, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2000/60/EC establishing a framework for Community policy in the field of water, or any other relevant environmental legislation as listed in the application form (the section concerning compliance with Union policy on environmental protection).

II.25.2 Maximum amount

The total amount paid by the Commission to a beneficiary may in no circumstances exceed the maximum amount of the grant for that beneficiary specified in Article 3.

Where the amount determined in accordance with Article II.25.1 for a beneficiary exceeds this maximum amount, the final amount of the grant for that beneficiary shall be limited to the maximum amount specified in Article 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. For each beneficiary, "profit" shall mean a surplus of its receipts over its eligible costs.

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

(c) income generated by its activities under the Agreement; or

(d) financial contributions specifically assigned by the donors to the financing of its eligible costs reimbursed by the Commission in accordance with [*Article 3(a)(i) point (i) of Article 3(a)(a1), [and] (a2)[,][and] (aN)* .

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 2.2.

II.25.3.4 The eligible costs to be taken into account are the eligible costs approved by the Commission for the categories of costs reimbursed in accordance with Article 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 a beneficiary, the profit shall be deducted in proportion to the final rate of reimbursement of its actual eligible costs approved by the Commission for the categories of costs referred to in [*Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*. This final rate shall be calculated on the basis of the final amount of the grant for the beneficiary in the form referred to in [*Article 3(a)(i)] [point (i) of Article 3(a)(a1)[,] [and] (a2)[,][and] (aN) […]]*, as determined in accordance with Articles II.25.1 and II.25.2.

II.25.4 Reduction for poor, partial or late implementation, or breach of contractual obligations

The Commission may reduce the maximum grant amount per beneficiary set out in Article 3 if the action is not implemented properly in accordance with Annex I (i.e. if it has not been implemented or has been implemented poorly, partially or late), or if a beneficiary fails to comply with any other obligations under this Agreement.

This includes the case where the Commission does not receive all the documents required under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Directive 2009/147/EC on the conservation of wild birds, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2000/60/EC establishing a framework for Community policy in the field of water, or any other relevant environmental legislation as listed in the application form (the section concerning compliance with Union policy on environmental protection).]

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 Commission shall formally notify the coordinator of its intention to recover the amount unduly paid:

(a) specifying the amount due and the reasons for recovery;

(b) inviting the coordinator to make any observations within a specified period[.] *:; and*

(c) *requesting the coordinator to submit a report on the distribution of payments to the beneficiaries within a specified period.]*

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

If the coordinator does not repay the Commission by the date specified in the debit note and has not submitted the report on the distribution of payments, the Commission shall recover the amount due from the coordinator in accordance with Article II.26.3, even if it has not been the final recipient of the amount due.

If the coordinator does not repay the Commission by the date specified in the debit note but has submitted the report on the distribution of payments made to the beneficiaries, the Commission shall recover the amount due from the beneficiary which has been the final recipient of the amount due.]

: If the coordinator does not repay the Commission by the date specified in the debit note, the Commission shall recover the amount due from the beneficiary which has been the final recipient of the amount due.]

For that purpose, the Commission shall:

(a) where, in accordance with Article 3(a), the grant takes the form of the reimbursement of eligible costs:

(i) identify the beneficiaries for which the amount calculated as follows is negative:

{{{ {Beneficiary's costs (including the costs of its affiliated entities and implementing bodies if applicable) declared in the final financial statement and approved by the Commission multiplied by the reimbursement rate(s) set out in Article 3(a) for the beneficiary concerned}

divided by

the amount calculated according to Article II.25.1**}**

multiplied by

the final grant amount calculated according to Article II.25**}**,

minus

the pre-financing and interim payments received by the beneficiary**}**

(ii) formally notify to each beneficiary identified according to point (i) a debit note specifying the terms and date for payment. The amount of the debit note shall be calculated as follows:

{ {amount calculated according to point (i) for the beneficiary concerned

divided by

the sum of the amounts calculated according to point (i) for all the beneficiaries identified according to point (i) }

multiplied by

the amount set out in the debit note formally notified to the coordinator **}**

(b) where, in accordance with Article 3(b), (c) or (d) the grant takes the form of a unit, lump sum or flat-rate contribution, formally notify to each beneficiary a debit note specifying the terms and date for payment. The amount of the debit note shall be calculated as follows:

{ {the pre-financing and interim payments received by the beneficiary

divided by

the total amount of pre-financing and interim payments paid by the Commission}

multiplied by

the amount set out in the debit note formally notified to the coordinator **}**;

(c) where Article 3 provides for a combination of different forms of grant, these amounts shall be added.

If the beneficiary concerned does not repay the Commission by the date specified in the debit note, the Commission shall recover the amount due from the beneficiary in accordance with Article II.26.3.]

Where the payment of the balance takes the form of a recovery, the Commission shall formally notify the coordinator of its intention to recover the amount unduly paid:

(a) specifying the amount due and the reasons for recovery;

(b) inviting the coordinator to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the coordinator, the Commission decides to pursue the recovery procedure, the Commission may

confirm recovery by formally notifying to the coordinator a debit note (“debit note”), specifying the terms and the date for payment.

If the coordinator does not repay the Commission by the date specified in the debit note, the Commission shall allocate to each beneficiary the amount due according to its pro-rata share of the maximum CEF contribution as defined in the breakdown in Table 3 of Annex III. The Commission shall recover from each beneficiary its share of the amount due.

If the beneficiary concerned does not repay the Commission by the date specified in the debit note, the Commission shall recover the amount due from the beneficiary in accordance with Article II.26.3.]

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 Commission the amount in question.

Where the audit findings do not concern a specific beneficiary, the coordinator shall repay the Commission the amount in question, even if it has not been the final recipient of the amount due.

Before recovery, the Commission shall formally notify the beneficiary concerned or the coordinator of its intention to recover the amount unduly paid:

(a) specifying the amount due (including any amount unduly paid by the Commission as a contribution towards the costs incurred by its affiliated entities or its implementing bodies) and the reasons for recovery;

(b) inviting the beneficiary concerned or the coordinator to make any observations within a specified period.

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

If the beneficiary concerned or the coordinator does not repay the Commission by the date specified in the debit note, the Commission shall recover the amount due from the beneficiary concerned or the coordinator in accordance with Article II.26.3.

II.26.3 Recovery procedure failing repayment by the date specified in the debit note

If payment has not been made by the date specified in the debit note, 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 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 4.1 (“drawing on the financial guarantee”);

(c) where provided for in the Special Conditions, by holding the beneficiaries jointly and severally liable;

(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.

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.24.7. 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 Commission 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 Commission 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 Commission may carry out interim or final evaluation of the impact of the action measured against the objective of the Union programme concerned, in order to assess

whether the objectives, including those relating to environmental protection, have been attained.

Checks, audits or evaluations made by the Commission 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 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 Commission 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 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 or audit is initiated before the payment of the balance, the coordinator shall provide any information, including information in electronic format, requested by the Commission, or by any other outside body authorised by it. Where appropriate, the Commission 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.

For an evaluation, the coordinator shall provide any information, including information in electronic format, requested by the Commission, or by any other outside body authorised by it. Where appropriate, the Commission may request such information to be provided directly by a beneficiary.

In case the beneficiary concerned does not comply with the obligations set out in the first and second subparagraphs, the Commission 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 Commission staff and outside personnel authorised by the Commission to have access to the sites and premises where the action 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 a beneficiary refuses to provide access to the sites, premises and information in accordance with the first and second subparagraphs, the Commission 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 Commission 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 Commission 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 for the beneficiary concerned, determined in accordance with Article II.25, and the total amount paid to the beneficiary concerned under the Agreement for the implementation of its activities.

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

II.27.7.1 The Commission 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.

The extension of findings may lead to:

(a) the rejection of costs as ineligible;

(b) reduction of the grant as provided for in Article II.25.4;

(c) recovery of undue amounts as provided for in Article II.26;

(d) suspension of payments as provided for in Article II.24.5;

(e) suspension of the action implementation as provided for in Article II.15.2;

(f) termination as provided for in Article II.16.3.

II.27.7.2 The Commission must send a formal notification to the beneficiary concerned informing it of the systemic or recurrent errors and of its intention to extend the audit findings, together with the list of grants affected.

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

The formal notification must include:

(i) an invitation to submit observations on the list of grants affected by the findings;

(ii) a request to submit revised financial statements for all grants affected;

(iii) where possible, the correction rate for extrapolation established by the Commission to calculate the amounts to be rejected on the basis of the systemic or recurrent errors, irregularities, fraud or breach of obligations, if the beneficiary concerned:

- considers that the submission of revised financial statements is not possible or practicable; or
- will not submit revised financial statements.

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

If the beneficiary concerned submits revised financial statements that take account of the findings, the Commission will determine the amount to be corrected on the basis of those revised statements.

If the beneficiary proposes an alternative correction method and the Commission accepts it, the Commission must send a formal notification to the beneficiary concerned informing it:

(i) that it accepts the alternative method;

(ii) of the revised eligible costs determined by applying this method.

Otherwise the Commission must send a formal notification to the beneficiary concerned informing it:

(i) that it does not accept the observations or the alternative method proposed;

(ii) of the revised eligible costs determined by applying the extrapolation method initially notified to the 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 declared by the beneficiary and approved by the Commission 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 action;]

(b) If the findings concern improper implementation or a breach of another obligation (i.e. where ineligible costs cannot serve as a basis for determining the amount to be corrected), the procedure is as follows:

The Commission shall formally notify the beneficiary concerned of the correction flat rate to be applied to the maximum amount of the grant specified in Article 3 or to part of it, according to the principle of proportionality, and invite the beneficiary to submit observations on the list

of grants affected by the findings.

The beneficiary concerned 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 Commission 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 Commission does not accept the observations or the alternative flat rate proposed by the beneficiary, the Commission 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 action.]

II.27.8 Checks and inspections by OLAF

The European Anti-Fraud Office (OLAF) shall have the same rights as the Commission and the Commission, notably right of access, for the purpose of checks and investigations.

By virtue of Council Regulation (Euratom, EC) No 2185/96[6] 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 and Regulation (EU) No 883/2013[7] of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities.

Where appropriate, OLAF findings may lead to recovery by the Commission. They may also lead to criminal prosecution under national law.

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

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

[6] OJ L 292, 15.11.1996, p.2
[7] OJ L 248, 18.09.2013, p.1

ANNEX III

ESTIMATED BUDGET OF THE ACTION

See separate Excel Form attached to the grant documentation

ANNEX IV

MANDATE [N]

I, the undersigned,

[forename, surname and function of the legal representative of the future beneficiary signing this mandate],

representing,

[full official name of the future beneficiary] *[(ACRONYM or short name)]*
[*official legal status or form*]
[Registration No [*official registration No]*]
[full official address]
[VAT No [*VAT number]*] ,

hereinafter referred to as "the beneficiary",

for the purposes of the signature and the implementation of the grant agreement No /[xxxx] for the Action No [action code] entitled "[action title as specified in Article 1 GA]" with the Commission European Commission (hereinafter referred to as "the grant agreement")

hereby mandate:

[full official name of the coordinator] *[(ACRONYM or short name)]*
[*official legal status or form*]
[Registration No [*official registration No*]]
[full official address]
[VAT No [*VAT number*]] ,
represented by [forename, surname and function of the legal representative of the coordinator] (hereinafter referred to as "the coordinator")

[Option 1 – if the coordinator signs on behalf of the other beneficiaries:

1. to sign in my name and on my behalf the grant agreement and its possible subsequent amendments with the Commission European Commission ,

and

2. to act on behalf of the beneficiary in compliance with the grant agreement.]

[Option 2 – if the coordinator has NO power of attorney:
to act on behalf of the beneficiary in compliance with the grant agreement.]

I hereby confirm that the beneficiary accepts all terms and conditions of the grant agreement and, in particular, all provisions affecting the coordinator and the other beneficiaries. *[Text if the coordinator is the sole recipient of all payments: In particular, I acknowledge that, by virtue of this mandate, the coordinator alone is entitled to receive funds from the Commission and distribute the amounts corresponding to the beneficiary's participation in the action.]*

I hereby accept that the beneficiary will do everything in its power to help the coordinator fulfil its obligations under the grant agreement, and in particular, to provide to the coordinator, on its request, whatever documents or information may be required.

I hereby declare that the beneficiary agrees that the provisions of the grant agreement, including this mandate, shall take precedence over any other agreement between the beneficiary and the coordinator which may have an effect on the implementation of the grant agreement.

This mandate shall be annexed to the grant agreement and shall form an integral part thereof.

SIGNATURE

[forename, surname, function of the legal representative of the mandating beneficiary]

[signature]

Done at [place], on [date]
In *[duplicate][[…] original copies*] in English

ANNEX V

MODEL TECHNICAL REPORT(S)

The templates for technical report(s) as referred to in Article II.23 are those provided by the Commission, and are available on the website at the following link:

http://ec.europa.eu/inea/en/connecting-europe-facility/cef-transport/beneficiaries-info-point

ANNEX VI

MODEL FINANCIAL STATEMENT(S)

The templates for financial statements as referred to in Article II.23 are those provided by the Commission, and are available on the Commission website at the following link:

http://ec.europa.eu/inea/en/connecting-europe-facility/cef-transport/beneficiaries-info-point

ANNEX VII

MODEL TERMS OF REFERENCE FOR THE CERTIFICATE ON THE FINANCIAL STATEMENTS

The model terms of reference for the certificate on the financial statements as referred to in Article II.23 are those provided by the Commission, and are available on the website at the following link:

http://ec.europa.eu/inea/en/connecting-europe-facility/cef-transport/beneficiaries-info-point

The model terms of reference for the certificate on the financial statements include templates for:

- the Terms of Reference for an Independent Report of Factual Findings on costs declared under a Grant Agreement financed under the Connecting Europe Facility (CEF), and
- the independent report of factual findings on costs declared under a grant agreement financed under the Connecting Europe Facility (CEF), including its annex.

Electronically signed on 06/09/2019 11:03 (UTC+02) in accordance with article 4.2 (Validity of electronic documents) of Commission Decision 2004/563