



EUROPEAN COMMISSION  
Executive Agency for Small and Medium-sized Enterprises  
Unit B3 LIFE and CIP Eco-Innovation

## GRANT AGREEMENT<sup>1</sup>

### AGREEMENT NUMBER — LIFE17 GIC/CZ/000107 - LIFE TreeCheck

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

on the one part,

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

and

on the other part,

1. 'the coordinating beneficiary'

**Nadace Partnerství (NaP)**

Private non-commercial

Official registration No: 45773521

Údolní 33, 60200 Brno, Czech Republic

VAT number: CZ45773521,

represented for the purposes of signature of the Agreement by the Director, Miroslav Kundra,

and the following other associated beneficiaries:

2. Carpathian Development Institute (CDI) — established in Slovakia

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

3. Global Change Research Institute CAS (CzechGlobe) — established in Czech Republic
4. EKOTOXA s. r. o. (EKOTOXA) — established in Czech Republic
5. Ökotárs Alapítvány (HEPF) — established in Hungary
6. LEMITOR Ochrona Środowiska Sp. z o.o. sp.k. (LEMITOR) — established in Poland
7. SAFE TREES s.r.o. (SAFE TREES) — established in Czech Republic

duly represented for the signature of the Agreement by the coordinating beneficiary by virtue of the mandate[s] included in Annex II form[s] A4

Unless otherwise specified, references to ‘beneficiary’ and ‘beneficiaries’ include the coordinating beneficiary.

The parties referred to above

#### HAVE AGREED

to the Special Conditions (‘the Special Conditions’) and the following Annexes:

- |            |  |
|------------|--|
| Annex I    | General Conditions ((hereinafter referred to as ‘the General Conditions’)  |
| Annex II   | Description of the project   |
| Annex III  | Estimated budget of the project: Forms R1, R2 and all F-Forms in Annex II  |
| Annex IV   | Mandate[s] provided to the coordinating beneficiary by the other beneficiary[ies] Form[s] A4 in Annex II   |
| Annex V    | Model technical report: The applicable model technical reports are to be found on the website: <a href="http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm">http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm</a>                 |
| Annex VI   | Model financial statement: The applicable model financial reports are to be found on the website:<br><a href="http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm">http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm</a>           |
| Annex VII  | Model terms of reference for the certificate on the financial statements <i>to be found on the website:</i><br><a href="http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm">http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm</a> |
| Annex VIII | Model terms of reference for the certificate on the compliance of the cost accounting practices: <b>not applicable</b>   |
| Annex IX   | Model terms of reference for the operational verification report: <b>not applicable</b>  |
| Annex X    | Financial and Administrative guidelines<br><a href="http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm">http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm</a>   |

Annex XI Guidelines for applicants

<http://ec.europa.eu/environment/life/toolkit/pmtools/index.htm>

which form an integral part of the Agreement.

The provisions in the Special Conditions of the Agreement take precedence over its Annexes.

The provisions in Annex I 'General Conditions' take precedence over the other Annexes.

## SPECIAL CONDITIONS

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## ARTICLE I.1 – SUBJECT MATTER OF THE AGREEMENT

The Agency has decided to award a grant under the terms and conditions set out in the Special Conditions, the General Conditions and the other Annexes to the Agreement, for the *project* entitled **LIFE TreeCheck: Green Infrastructure Minimising the Urban Heat Island Effect**, as described in Annex II.

By signing the Agreement, the beneficiaries accept the grant and agree to implement the *project*, acting on their own responsibility.

## ARTICLE I.2 – ENTRY INTO FORCE AND IMPLEMENTATION PERIOD OF THE AGREEMENT

**I.2.1** The Agreement enters into force on the date on which the last party signs it.

**I.2.2** The *project* runs from **01/09/2018** ('*starting date*') until **31/08/2022** ('*end date*')

## ARTICLE I.3 – MAXIMUM AMOUNT AND FORM OF THE GRANT

**I.3.1** The *maximum amount of the grant* is **EUR 924,053**.

**I.3.2** The grant takes **the form** of:

(a) the reimbursement of 59.34% of the eligible costs of the *project* ('reimbursement of eligible costs'), which are estimated at EUR 1,557,091 and which are:

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

(ii) *reimbursement of unit costs: not applicable*

(iii) *reimbursement of lump sum costs: not applicable*

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

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

(b) *unit contribution: not applicable*

(c) *lump sum contribution: not applicable*

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

## **ARTICLE I.4 – REPORTING – REQUESTS FOR PAYMENT AND SUPPORTING DOCUMENTS – PAYMENTS AND PAYMENT ARRANGEMENTS**

### **I.4.1 Reporting and reporting periods**

- (a) The project reporting schedule is specified in Annex II
- (b) The delay between consecutive reports shall not exceed 18 months.
- (c) All reports shall contain the necessary information for the Agency to evaluate the state of implementation of the project, the respect of the work plan, the financial status of the project and whether the project's objectives have been achieved or are still achievable.
- (d) The form and contents of the reports shall be in accordance with the guidelines issued by the Agency as specified on the website <http://ec.europa.eu/environment/life/toolkit/pmttools/index.htm>.
- (e) All reports shall be simultaneously submitted to the Agency and to the external monitoring team designated by the Agency.

The technical reports, including annexes, shall only be submitted, in electronic format,

The financial reports shall be submitted, in both paper and electronic formats.

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

### **I.4.2 Requests for further pre-financing payment[s] and supporting documents**

The coordinating beneficiary must submit a request for further pre-financing payment in accordance with the mid-term report schedule specified in Annex II.

The request must be accompanied by the following documents:

- (a) a progress report on the implementation of the *project* ('technical report on progress');
- (b) a statement on the amount of the previous pre-financing instalment used to cover costs of the *project* ('statement on the use of the previous pre-financing instalment'). The statement must be drawn up in accordance with Annex VI.

### **I.4.3 Request[s] for interim payment[s] and supporting documents**

Not applicable

#### **I.4.4 Request for payment of the balance and supporting documents**

The coordinating beneficiary must submit a request for payment of the balance in accordance with the reporting schedule specified in Annex II, but no later than 90 calendar days following the *end date* of the project.

This request must be accompanied by the following documents:

- (a) a final report on implementation of the project ('final technical report'), drawn up in accordance with Annex V, containing:
  - (i) the information needed to justify the eligible costs declared or the contribution requested on the basis of unit costs and lump sums (where the grant takes the form of the reimbursement of unit or lump sum costs or of a unit or lump sum contribution, as provided for in Article I.3.2(a)(ii) and (iii), (b) or (c));
  - (ii) information on subcontracting as referred to in Article II.11.1(d);
- (b) a final financial statement ('final financial statement'). The final financial statement must include a consolidated statement and a breakdown of the amounts claimed by each beneficiary and its affiliated entities.

The final financial statement must be drawn up in accordance with the structure of the estimated budget set out in Annex III and in accordance with Annex VI;

- (c) 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 and its affiliated entities, aggregating the financial statements already submitted previously and indicating the receipts referred to in Article II.25.3 for each beneficiary and its affiliated entities.

The summary financial statement must be drawn up in accordance with Annex VI;

- (d) a certificate on the financial statements and underlying accounts ('certificate on the financial statements') for each beneficiary and for each affiliated entity, if:
  - (i) the cumulative amount of payments the beneficiary requests as reimbursement of actual costs as referred to in Article I.3.2(a)(i) (and for which no certificate has yet been submitted) is EUR 325,000 or more;
  - (ii) the maximum grant amount indicated for that beneficiary and its affiliated entities in the estimated budget as reimbursement of actual costs is EUR 750,000 or more.

This certificate must 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.

The certificate must certify that the costs declared in the final financial statement by the beneficiary concerned or its affiliated entities for the categories of costs reimbursed in

accordance with Article I.3.2(a)(i) are real, accurately recorded and eligible in accordance with the Agreement.

In addition, the certificate must certify that all the receipts referred to in Article II.25.3 have been declared.

The coordinating beneficiary must certify that the information provided in the request for payment of the balance is full, reliable and true.

The coordinating beneficiary must 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, the coordinating beneficiary must certify that all the receipts referred to in Article II.25.3 have been declared.

#### **I.4.5 Information on cumulative expenditure incurred**

In case the maximum contribution referred to in Article I.3.1 is more than EUR 5,000,000 then :

In addition to the reporting requirements set out above, the coordinating beneficiary must inform the Agency by 30 November each year about the cumulative expenditure incurred by the beneficiaries from the *starting date*.

This information is required for the Agency's accounting purposes and may not be used for determining the final amount of the grant.

#### **I.4.6 Currency for requests for payment and financial statements and conversion into euro**

Requests for payment and financial statements must be drafted in euros.

Beneficiaries and affiliated entities with general accounts in a currency other than the euro must convert costs incurred in another currency into euros at the monthly accounting rate established by the Commission and published on its website (available at [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)) applicable on the day when the cost was incurred, or

at the monthly accounting rate established by the Commission and published on its website (available at

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm))

applicable on the first working day of the month following the period covered by the financial statement concerned

Beneficiaries and affiliated entities with general accounts in euros must convert costs incurred in another currency into euros in accordance with their usual accounting practices.

#### **I.4.7 Language of requests for payments, technical reports and financial statements**

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

#### **I.4.8 Payments to be made**

The Agency must make the following payments to the coordinating beneficiary:

- one pre-financing payment;
- further pre-financing payments, on the basis of the request for further pre-financing payments referred to in Article I.4.2;
- one payment of the balance, on the basis of the request for payment of the balance referred to in Article I.4.4.

#### **I.4.9 Pre-financing payment[s]**

The aim of the pre-financing is to provide the beneficiaries with a float. The pre-financing remains the property of the Union until it is cleared against interim payments or, if it is not cleared against interim payments, until the payment of the balance.

The Agency must make a first pre-financing payment of EUR 277,215.90 to the coordinating beneficiary within 30 calendar days from the entry into force of the Agreement, except if Article II.24.1 applies.

The Agency must make a second pre-financing payment of EUR 369,621.20 to the coordinating beneficiary within 60 calendar days from when the Agency receives the request for second pre-financing payment referred to in Article I.4.2, subject to having used at least 100% of the previous pre-financing instalment paid to cover costs of the project, except if Article II.24.1 or II.24.2 apply.

#### **I.4.10 Interim payment[s]**

Not applicable

#### **I.4.11 Payment of the balance**

The payment of the balance reimburses or covers the remaining part of the eligible costs incurred by the beneficiaries for the implementation of the *project*.

If 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 takes the form of a recovery as provided for by Article II.26.

If the total amount of earlier payments is lower than the final amount of the grant determined in accordance with Article II.25, the Agency must pay the balance within 90 calendar days

from when it receives the documents referred to in Article I.4.4, except if Article II.24.1 or II.24.2 apply.

Payment is subject to the approval of the request for payment of the balance and of the accompanying documents. Their approval does not imply recognition of the compliance, authenticity, completeness or correctness of their content.

The Agency determines the amount due as the balance by deducting the total amount of pre-financing and interim payments (if any) already made from the final amount of the grant determined in accordance with Article II.25.

The amount to be paid may, however, be offset, without the beneficiary's consent, against any other amount owed by the beneficiary to the Agency, the Commission or to an executive agency (under the EU or Euratom budget), up to the maximum contribution indicated for that beneficiary, in the estimated budget in Annex III.

#### **I.4.12 Notification of amounts due**

The Agency must send a *notification* to the coordinating beneficiary:

- (a) informing it of the amount due; and
- (b) specifying whether the notification concerns a further pre-financing payment, an interim payment or the payment of the balance.

For the payment of the balance, the Agency must also specify the final amount of the grant determined in accordance with Article II.25.

#### **I.4.13 Interest on late payment**

If the Agency does not pay within the time limits for payment, the beneficiaries are entitled to late-payment interest 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 is 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*.

Late-payment interest is not due if all beneficiaries are Member States of the Union (including regional and local government authorities and other public bodies acting in the name of and on behalf of the Member State for the purpose of the Agreement).

If the Agency suspends the time limit for payment as provided for in Article II.24.2 or if it suspends an actual payments as provided for in Article II.24.1, these actions may not be considered as cases of late payment.

Late-payment interest covers 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 I.4.15. The Agency does not consider payable interest when determining the final amount of grant within the meaning of Article II.25.

As an exception to the first subparagraph, if the calculated interest is lower than or equal to EUR 200, it must be paid to the coordinating beneficiary only if the coordinating beneficiary requests it within two months of receiving late payment.



#### **I.4.14 Currency for payments**

The Agency must make payments in euros.

#### **I.4.15 Date of payment**

Payments by the Agency are considered to have been carried out on the date when they are debited to its account.

#### **I.4.16 Costs of payment transfers**

Costs of the payment transfers are borne as follows:

- (a) the Agency bears the costs of transfer charged by its bank;
- (b) the beneficiary bears the costs of transfer charged by its bank;

#### **I.4.17 Payments to the coordinating beneficiary**

The Agency must make payments to the coordinating beneficiary.

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

### **ARTICLE I.5 – BANK ACCOUNT FOR PAYMENTS**

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

Name of bank: Česká spořitelna a.s.

Precise denomination of the account holder: Nadace Partnerství

Full account number (including bank codes): CZ21 0800 9944 0401 4906 5005

IBAN code: CZ21 0800 9944 0401 4906 5005

### **ARTICLE I.6 – DATA CONTROLLER, COMMUNICATION DETAILS OF THE PARTIES**

#### **I.6.1 Data controller**

The entity acting as a data controller as provided for in Article II.7 is: Unit B.3 LIFE and CIP Eco-Innovation.

#### **I.6.2 Communication details of the Agency**

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



**Ordinary or registered mail by postal service :**

*European Commission  
EASME  
Unit B.3 LIFE and CIP Eco-Innovation  
B-1049 Brussels*

**Express delivery service or hand-delivery against signature :**

*European Commission  
EASME  
Unit B.3 LIFE and CIP Eco-Innovation  
Mail Service  
Avenue du Bourget 1  
B-1140 Brussels*

***E-mails:***

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

**I.6.3 Communication details of the beneficiaries**

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

Michal Vesely  
Development Director  
Nadace Partnerství  
Údolní 33, 60200 Brno, Czech Republic  
Email address: partnerstvi@nap.cz

**I.6.4 Communication details of the beneficiaries after payment of the balance**

After the payment of the balance, any communication addressed to the beneficiaries must be sent to their legal address.

**I.7 – ENTITIES AFFILIATED TO THE BENEFICIARIES**

Not Applicable

**I.8 – BENEFICIARIES WHICH ARE INTERNATIONAL ORGANISATIONS**

Not Applicable

## **I.9 – CHECKS AND AUDITS**

By derogation of Article II.27.3 of the general conditions, notwithstanding whether the checks, audits or evaluations are initiated before or after the payment of the balance, the coordinating beneficiary may be required to collect the information concerning the associated beneficiaries and to make them available to the Agency or other outside body authorised by it.

When requested by the Agency or other outside body authorised by it, the coordinating beneficiary shall provide without delay the information mentioned above, which includes that of the concerned associated beneficiaries. In this case, the coordinating beneficiary shall bear responsibility for obtaining and verifying this information before passing it on to the Agency, as foreseen in Article II.2.3(b)(ii).

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

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

## **I.10 – SETTLEMENT OF DISPUTES WITH NON-EU BENEFICIARIES**

Not Applicable

## **I.11 – SPECIAL PROVISIONS ON THE FINANCIAL RESPONSIBILITY FOR RECOVERIES**

The financial responsibility of each beneficiary is limited to its own debt, including any amount unduly paid by the Agency as a contribution towards the costs incurred by its affiliated entities.

Point (c) of the third paragraph of Article II.26.3 does not apply.

## **I.12 – OBLIGATION TO CONCLUDE AN INTERNAL COOPERATION AGREEMENT**

The coordinating beneficiary shall conclude with all associated beneficiaries agreements describing their technical and financial participation in the project.

## **I.13 – ELIGIBILITY OF DURABLE GOODS COSTS**

As an exception to Article II.19.2(c), the full cost of purchase of equipment is eligible, subject to the following conditions:

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

definitively and exclusively to nature conservation activities beyond the end of the project co-financed under LIFE Nature and Biodiversity.

(b) For **prototypes** 100% of the purchase costs of their components are eligible for co-funding. A **prototype** may not be used for commercial purposes during the period set out in Article I.2.2. Should the prototype or any of its components be used for commercial purposes (i.e. sold, leased, rented or used to produce goods or services) during the project, this shall be declared. The costs of creating the prototype shall then be depreciated in accordance with the rules applicable to the purchase of new or second-hand equipment and infrastructure. Any related income must be declared.

## SIGNATURES

For the coordinating beneficiary

Director, Miroslav Kundra

Done at Brno, on 30.8.2018

In duplicate in English

For the Agency

Head of Unit, Angelo Salsi

Done at Brussels, on... 16/8/2018

## ANNEX I – GENERAL CONDITIONS

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## PART A – LEGAL AND ADMINISTRATIVE PROVISIONS

### ARTICLE II.1 – DEFINITIONS

The following definitions apply for the purpose of the Agreement:

**‘Project’:** the set of activities or the actions for which the grant is awarded, to be implemented by the beneficiaries as described in Annex II.

**‘Confidential information or document’:** any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Agreement that any of the parties has identified in writing as confidential. It does not include information that is publicly available.

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

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

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

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

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

**‘Implementation period’:** the period of implementation of the activities forming part of the project, as specified in Article I.2.2;

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

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



**‘Maximum amount of the grant’:** the maximum EU contribution to the project, as defined in Article I.3.1;

**‘Pre-existing material’:** 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 project;

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

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

**‘Starting date’:** the date on which the implementation of the project starts as provided for in Article I.2.2;

**‘Subcontract’:** a procurement contract within the meaning of Article II.10, which covers the implementation by a third party of tasks forming part of the project as described in Annex II;

**‘Substantial error’:** 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.

## **ARTICLE II.2 – GENERAL OBLIGATIONS AND ROLES OF THE BENEFICIARIES**

### **II.2.1 General obligations and role of the beneficiaries**

The beneficiaries:

- (a) are jointly and severally liable for carrying out the *project* in accordance with the Agreement. If a beneficiary fails to implement its part of the *project*, the other beneficiaries become responsible for implementing this part (but without increasing the *maximum amount of the grant*);
- (b) must comply jointly or individually with any legal obligations they are bound by under applicable EU, international and national law;
- (c) must make appropriate internal arrangements to implement the *project* properly. The arrangements must be consistent with the terms of the Agreement. If provided for in the Special Conditions, those arrangements must take the form of an internal cooperation agreement between the beneficiaries.
- (d) maintain up-to-date books of account, in accordance with the usual accounting conventions imposed on them by law and existing regulations;
- (e) ensure that all invoices include a clear reference to the project;
- (f) not act, in the context of the project, as sub-contractor or supplier to any other beneficiary;
- (g) contribute financially to the project;

## **II.2.2 General obligations and role of each beneficiary**

Each associated beneficiary must:

- (a) inform the coordinating beneficiary immediately of any change likely to affect or delay the implementation of the project of which the beneficiary is aware, and, for LIFE Nature and Biodiversity projects, of any activity by third parties that is likely to have a significant negative impact on the sites/species targeted in the project, and if appropriate to take measures to persuade third parties to refrain from such activities;
- (b) inform the coordinating beneficiary immediately of any change in its legal, financial, technical, organisational or ownership situation or of its affiliated entities and of any change in its name, address or legal representative or of its affiliated entities;
- (c) submit in due time to the coordinating beneficiary:
  - (i) the data needed to draw up the reports, financial statements and other documents provided for in the Agreement;
  - (ii) all the necessary documents required for audits, checks or evaluations as provided for in Article II.27.
  - (iii) any other information to be provided to the Agency under the Agreement, except if the Agreement requires such information to be submitted directly by the beneficiary to the Agency.

## **II.2.3 General obligations and role of the coordinating beneficiary**

The coordinating beneficiary:

- (a) must monitor the implementation of the *project* in order to make sure that is implemented in accordance with the terms of the Agreement;
- (b) is the intermediary for all communications between the beneficiaries and the Agency, except if provided otherwise in the Agreement. In particular, the coordinating beneficiary:
  - (i) must immediately inform the Agency:
    - of any change in the name, address, legal representative of any of the beneficiaries or of their affiliated entities;
    - of any change in the legal, financial, technical, organisational or ownership situation of any of the beneficiaries or of their affiliated entities;
    - of any events or circumstances of which the coordinating beneficiary is aware, that are likely to affect or delay the implementation of the *project*.
    - for LIFE Nature and Biodiversity projects, of any activity by third parties that is likely to have a significant negative impact on the sites/species targeted in the

project, and if appropriate to take measures to persuade third parties to refrain from such activities;

- (ii) is responsible for supplying the Agency with all documents and information required under the Agreement, except if provided otherwise in the Agreement itself. If information is required from the other beneficiaries, the coordinating beneficiary is responsible for obtaining and verifying this information before passing it on to the Agency;
- (c) must make the appropriate arrangements for providing any financial guarantees required under the Agreement;
- (d) must draw up the requests for payment in accordance with the Agreement;
- (e) if it is designated as the sole recipient of payments on behalf of all of the beneficiaries, it must ensure that all the appropriate payments are made within 30 days of the receipt of the funds paid by the Agency unless there is a justified delay. The coordinating beneficiary shall inform the Agency of the distribution of the Union contribution;
- (f) bear responsibility for providing all the necessary documents in the event of checks and audits initiated before the payment of the balance, and in the event of evaluation in accordance with Article II.27 as well as for retaining copies of all supporting documents of all the associated beneficiaries for at least five years after the balance payment.

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

#### **II.2.4 The role of the external monitoring team**

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

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

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

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

Any communication relating to the Agreement or to its implementation must:

- (a) be made in writing (in paper or electronic form);
- (b) bear the number of the Agreement and the acronym; and
- (c) be made using the communication details identified in Article I.6.

If a party requests written confirmation of an electronic communication within a reasonable time, the sender must provide an original signed paper version of the communication as soon as possible.

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

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

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

Any communication is considered to have been made when the receiving party receives it, unless the Agreement states that communication is considered to have been made on the date when the communication was sent.

Email is considered to have been received by the receiving party on the day of successful dispatch of that email, provided that it is sent to the email address indicated in Article I.6. The sending party must be able to prove the date of dispatch. If the sending party receives a non-delivery report, it must make every effort to ensure that the other party actually receives the communication by email or mail. In such a case, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

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

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

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

**II.4.1** The Agency may not be held liable for any damage caused or sustained by any of the beneficiaries, including any damage caused to third parties as a consequence of or during the implementation of the *project*.

**II.4.2** Except in cases of *force majeure*, the beneficiaries must compensate the Agency for any damage it sustains as a result of the implementation of the *project* or because the *project* was not implemented in full compliance with the Agreement.

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

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

**II.5.2** The beneficiaries must inform the Agency without delay of any situation constituting or likely to lead to a *conflict of interests*. They must take immediately all the necessary steps to rectify this situation.

The Agency may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

## **ARTICLE II.6 – CONFIDENTIALITY**

**II.6.1** During implementation of the *project* and for five years after the payment of the balance, the parties must treat with confidentiality any *confidential information and documents*.

**II.6.2** The parties may only use *confidential information and documents* for a reason other than to fulfil their obligations under the Agreement if they have first obtained the prior written agreement of the other party.

**II.6.3** The confidentiality obligations do not apply if:

- (a) the disclosing party agrees to release the other party from those obligations;
- (b) the *confidential information or documents* become public through other means than a breach of the confidentiality obligations;
- (c) the disclosure of the *confidential information or documents* is required by law
- (d) confidential information or documents are transferred between the Agency and the Commission.

**II.6.4** *The external monitoring team* shall act under the same confidentiality rules as those stipulated for the beneficiaries and the Agency.

## **ARTICLE II.7 – PROCESSING OF PERSONAL DATA**

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

Any personal data included in the Agreement must be processed by the Agency in accordance with Regulation (EC) No 45/2001.<sup>3</sup>

Such data must be processed by the data controller identified in Article I.6.1 solely for implementing, managing and monitoring the Agreement or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article II.27.

The beneficiaries have the right to access and correct their own personal data. For this purpose, they must send any queries about the processing of their personal data to the data controller identified in Article I.6.1.

The beneficiaries may have recourse at any time to the European Data Protection Supervisor.

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

The beneficiaries must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

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<sup>3</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

The beneficiaries may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement.

The beneficiaries must 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. This is 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 use of 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 processed on behalf of third parties can be processed only in the manner prescribed by the Agency;
- (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- (f) design their organisational structure in such a way that it meets data protection requirements.

## **ARTICLE II.8 – VISIBILITY OF UNION FUNDING**

### **II.8.1 Information on Union funding and use of the LIFE Programme and Natura 2000 logos**

- a) Unless the Agency requests or agrees otherwise, any communication or publication made by the beneficiaries jointly or individually that relates to the project, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form, etc.), must:
  - i. indicate that the project has received funding from the Union; and
  - ii. display the *LIFE Programme logo* (Annex II to the LIFE Regulation, <http://ec.europa.eu/environment/life/toolkit/comtools/resources/logos.htm>). For audio-visual material, the credits at the beginning and/or at the end shall include an explicit audible and readable mention to the LIFE financial support (e.g. “With the contribution of the LIFE Programme of the European Union”).

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

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



The obligation to display the *LIFE Programme logo* does not confer on the beneficiaries a right of exclusive use. The beneficiaries may not appropriate the *LIFE Programme logo* or any similar trademark or logo, either by registration or by any other means.

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the beneficiaries may use the *LIFE Programme logo* without first obtaining permission from the Agency.

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

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

#### **II.8.2 Disclaimers excluding Agency responsibility**

Any communication or publication that relates to the project, made by the beneficiaries jointly or individually in any form and using any means, must indicate:

- (a) that it reflects only the author's view; and
- (b) that the Agency is not responsible for any use that may be made of the information it contains.

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

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

The beneficiaries retain ownership of the results of the project, including industrial and intellectual property rights, and of the reports and other documents relating to it, unless stipulated otherwise in the Agreement.

With a view to promoting the use of techniques or models favourable to the environment, the beneficiaries are encouraged to make available throughout the Union all documents, patents and know-how directly resulting from the project implementation, on non-discriminatory and reasonable commercial conditions.

### **II.9.2 Pre-existing rights**

If the Agency 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 Agency at the latest with the request for payment of the balance.

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

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

The beneficiaries grant the Union and the Agency the following rights to use the results of the project:

- (a) for its own purposes and in particular to make available to persons working for the Agency, other Union institutions, 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 Agency, including digitisation 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.



- (i) inclusion in widely accessible databases or indexes, such as via 'open access' or 'open data' portals, or similar repositories, whether freely accessible or accessible only upon subscription of the LIFE Key Project Indicators collected by the beneficiaries in relation to the project.

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

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

The beneficiaries must ensure that the Union has the right to use any *pre-existing rights* included in the results of the project. The *pre-existing rights* must be used for the same purposes and under the same conditions as applicable to the rights of use of the results of the project, unless specified otherwise in the Special Conditions.

Information about the copyright owner must be inserted in cases where the result is divulged by the Union. The copyright information must read: '© — year — name of the copyright owner. All rights reserved. Licenced to the European Union under conditions.'.

If the beneficiaries grant rights of use to the Agency, this does not affect its confidentiality obligations under Article II.6 or the beneficiaries' obligations under Article II.2.1.

#### **ARTICLE II.10 — AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE PROJECT**

**II.10.1** If the implementation of the *project* requires the beneficiaries to procure goods, works or services, they must 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 must avoid any *conflict of interests*. Tendering procedures shall comply with the principles of transparency and equal treatment of potential contractors. The beneficiaries must maintain a written record of the procedure used to ensure that these conditions are fulfilled in the tendering procedure in accordance with their usual procurement policy and/or practise.

The beneficiaries must ensure that the Agency, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.27 also towards the beneficiaries' contractors.

Where the value of a contract exceeds EUR 135,000, all beneficiaries shall use an open tendering procedure, including a publication of the call for tender(s) in the relevant media. To establish the relevant threshold, the beneficiary shall consider together the value of all linked items.

Below the threshold of EUR 135,000 or the threshold set out in the applicable public national procurement rules, the beneficiary shall award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests and maintain written evidence of how the criterion of best value for money was met in accordance with the usual procurement policy and/or practise of the beneficiary.

**II.10.2** Beneficiaries that are ‘contracting authorities’ within the meaning of Directive 2014/24/EU<sup>4</sup> or ‘contracting entities’ within the meaning of Directive 2014/25/EU<sup>5</sup> must comply with the applicable national public procurement rules.

The beneficiaries must ensure that the conditions applicable to them under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractors.

**II.10.3** The beneficiaries remain solely responsible for carrying out the *project* and for compliance with the Agreement.

**II.10.4** If the beneficiaries breach their obligations under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (c), (d) and (e).

If the beneficiaries breach their obligations under Article II.10.2 the grant may be reduced in accordance with Article II.25.4.

#### **ARTICLE II.11 – SUBCONTRACTING OF TASKS FORMING PART OF THE PROJECT**

**II.11.1** Beneficiaries may subcontract tasks forming part of the *project*. If they do so, they must ensure that, in addition to the conditions specified in Article II.10, the following conditions are also complied with:

- (a) subcontracting does not cover core tasks of the *project*;
- (b) recourse to subcontracting is justified because of the nature of the *project* and what is necessary for its implementation;
- (c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex III;

any recourse to subcontracting, if not provided for in Annex II and III, is communicated by the coordinating beneficiary and approved by the Agency. The Agency may grant approval after recourse to subcontracting if the subcontracting:

- is specifically justified in the mid term or final technical report referred to in Articles I.4.3 and I.4.4; 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;

(d) the beneficiaries ensure that

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<sup>4</sup> 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

<sup>5</sup> 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

- i. the conditions applicable to them under Article II.8 are also applicable to the subcontractors.
- ii. all invoices issued by subcontractors bear a clear reference to the LIFE project (i.e. number and title or short title) and to the order/subcontract issued by the beneficiaries;
- iii. all invoices issued by subcontractors are sufficiently detailed as to allow identification of single items covered by the service delivered (i.e. clear description and cost of each item).

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

If the beneficiaries breach their obligation under Article II.11.1 (e) the grant may be reduced in accordance with Article II.25.4.

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

Not applicable

#### **ARTICLE II.13 – AMENDMENTS TO THE AGREEMENT**

**II.13.1** Any amendment to the Agreement must be made in writing.

**II.13.2** An amendment may not have the purpose or the effect of making changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants.

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

**II.13.3** Any request for amendment must:

- (a) be duly justified;
- (b) be accompanied by appropriate supporting documents; and
- (c) be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the *implementation period*.

Point (c) does not apply in cases duly substantiated by the party requesting the amendment if the other party agrees.

**II.13.4** A request for amendment on behalf of the beneficiaries must be submitted by the coordinating beneficiary. If a change of coordinating beneficiary is requested without its agreement, the request must be submitted by all other beneficiaries and must be accompanied by the opinion of the coordinating beneficiary or proof that this opinion has been requested in writing.

**II.13.5** Amendments enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

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

**ARTICLE II.14 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES**

**II.14.1** The beneficiaries may not assign any of their claims for payment against the Agency to any third party, except if approved by the Agency on the basis of a reasoned, written request by the coordinating beneficiary made on behalf of the beneficiaries.

If the Agency does not accept the assignment or the terms of it are not complied with, the assignment has no effect on it.

**II.14.2** In no circumstances may an assignment release the beneficiaries from their obligations towards the Agency.

**ARTICLE II.15 – FORCE MAJEURE**

**II.15.1** A party faced with *force majeure* must send a *formal notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.

**II.15.2** The parties must take the necessary measures to limit any damage due to *force majeure*. They must do their best to resume the implementation of the *project* as soon as possible.

**II.15.3** The party faced with *force majeure* may not be considered in breach of its obligations under the Agreement if it has been prevented from fulfilling them by *force majeure*.

**ARTICLE II.16 – SUSPENSION OF THE IMPLEMENTATION OF THE PROJECT**

**II.16.1 Suspension of implementation by the beneficiaries**

The coordinating beneficiary, on behalf of the beneficiaries, may suspend the implementation of the *project* or any part of it, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*.

The coordinating beneficiary must immediately inform the Agency, stating:

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

Once the circumstances allow the beneficiaries to resume implementing the *project*, the coordinating beneficiary must inform the Agency immediately and present a request for amendment of the Agreement as provided for in Article II.16.3. This obligation does not apply if the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.17.1, II.17.2 or points (c) or (d) of Article II.17.3.1.

## **II.16.2 Suspension of implementation by the Agency**

### **II.16.2.1 Grounds for suspension**

The Agency may suspend the implementation of the *project* or any part thereof:

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

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

**Step 1** — Before suspending implementation of the *project*, the Agency must send a *formal notification* to the coordinating beneficiary:

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

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

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

The coordinating beneficiary must immediately inform the other beneficiaries of the suspension. The suspension takes effect five calendar days after the *formal notification* is received by the coordinating beneficiary or on a later date specified in the *formal notification*.

Otherwise, the Agency must send a *formal notification* to the coordinating beneficiary informing it that it is not continuing the suspension procedure.

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

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

If the conditions for resuming the implementation are met or the necessary verifications are carried out, the Agency must send a *formal notification* to the coordinating beneficiary:

- (a) informing it that the conditions for lifting the suspension are met; and
- (b) requiring it to present a request for amendment of the Agreement as provided for in Article II.16.3. This obligation does not apply if the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.17.1, II.17.2 or points (c), (g) or (h) of Article II.17.3.1.

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

If the implementation of the *project* can be resumed and the Agreement has not been terminated, an amendment to the Agreement must be made in accordance with Article II.13 in order to:

- (a) set the date on which the *project* is to be resumed;
- (b) extend the duration of the *project*; and
- (c) make other changes necessary to adapt the *project* to the new situation.

The suspension is lifted with effect from the resumption date set out in the amendment. This date may be before the date on which the amendment enters into force.

Costs incurred during the period of suspension that relate to the implementation of the suspended *project* or the suspended part of it may not be reimbursed or covered by the grant.

Suspending implementation of the *project* does not affect the Agency's right to terminate the Agreement or to terminate the participation of a beneficiary in accordance with Article II.17.3, reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26.

Neither party may claim damages due to suspension by the other party.

## **ARTICLE II.17 – TERMINATION OF THE AGREEMENT**

### **II.17.1 Termination of the Agreement by the coordinating beneficiary**

The beneficiaries may terminate the Agreement.

The coordinating beneficiary must send a *formal notification* of termination to the Agency, stating:

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



If the coordinating beneficiary does not state the reasons for the termination or if the Agency considers that the reasons do not justify termination, the Agreement is considered to have been terminated improperly.

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

#### **II.17.2 Termination of the participation of one or more beneficiaries by the coordinating beneficiary**

The participation of one or more beneficiaries may be terminated by the coordinating beneficiary at the request of the associated beneficiary concerned or on behalf of the other associated beneficiaries.

The coordinating beneficiary must send a *formal notification* of termination to the Agency and inform the beneficiary concerned by termination.

If the coordinating beneficiary's participation is terminated without its agreement, the *formal notification* must be submitted by another associated beneficiary (acting on behalf of the other associated beneficiaries).

The *formal notification* must include:

- (a) the reasons for termination;
- (b) the opinion of the beneficiary concerned by termination (or proof that this opinion has been requested in writing);
- (c) the date on which the termination takes effect. This date must be set after the *formal notification*; and
- (d) a request for amendment as provided for in Article II.17.4.2(a).

If the coordinating beneficiary or beneficiary does not state the reasons for the termination or if the Agency considers that the reasons do not justify termination, the participation will be considered to have been terminated improperly.

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

#### **II.17.3 Termination of the Agreement or the participation of one or more beneficiaries by the Agency**

##### **II.17.3.1 Grounds for termination**

The Agency may terminate the Agreement or the participation of any one or several beneficiaries, if:

- (a) 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) 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) the beneficiaries do not implement the *project* as described in Annex II or a beneficiary fails to comply with another substantial obligation incumbent on it under the Agreement;
- (d) the implementation of the *project* is prevented or suspended due to *force majeure* or exceptional circumstances and either:
  - (i) resumption is impossible; or
  - (ii) the necessary changes to the Agreement would call into question the decision awarding the grant or be contrary to the equal treatment of applicants;
- (e) a beneficiary or any person that assumes unlimited liability for the debts of that beneficiary comes under any of the situations provided for in points (a) or (b) of Article 106 (1) of the Financial Regulation;<sup>6</sup>
- (f) a beneficiary or any *related person* comes under any of the situations provided for in points (c), (d), (e) or (f) of Article 106 (1) or comes under Article 106 (2) of the Financial Regulation;
- (g) the Agency has evidence that a beneficiary or any *related person* has committed *substantial errors*, *irregularities* or *fraud* in the award procedure or while implementing the Agreement, including if that beneficiary or *related person* has submitted false information or failed to provide required information;
- (h) the Agency has evidence that a beneficiary has committed systemic or recurrent errors, *irregularities*, *fraud* or serious breach of obligations in other Union or Euratom grants awarded to it under similar conditions and such errors, *irregularities*, *fraud* or breach have a material impact on this grant; or
- (i) the Agency has sent a beneficiary, through the coordinating beneficiary, 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), (g) or (h) and that beneficiary has failed to request an amendment ending the participation of the entity and reallocating its tasks.

### **II.17.3.2 Procedure for termination**

**Step 1-** Before terminating the Agreement or participation of one or more beneficiaries, the Agency must send a *formal notification* to the coordinating beneficiary:

- (a) informing it of:
  - (i) its intention to terminate;
  - (ii) the reasons for termination; and
- (b) requiring it, within 45 calendar days of receiving the formal notification,:

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<sup>6</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.