



The EU Framework Programme  
for Research and Innovation

# HORIZON 2020



## Mono-beneficiary model grant agreement for the SME instrument Phase 1 (SME-Ph1)

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11 December 2013

### Disclaimer

This document is aimed at assisting applicants for Horizon 2020 funding. It shows the full range of provisions that may be applied to this type of grant agreement, and is provided for information purposes only. The legally binding grant agreement will be that which is signed by the parties for each action.

*Research and  
Innovation*



[EUROPEAN COMMISSION/Executive Agency]  
DG

Directorate  
**Unit**

## **MONO-BENEFICIARY MODEL GRANT AGREEMENT FOR SME INSTRUMENT PHASE 1<sup>1</sup>**

### Introductory remark for publication on the Participant Portal only

The SME instrument Phase 1 Model Grant Agreement deviates from the General Model Grant Agreement in the following Articles:

- Article 4 Estimated budget of the action
- Article 5 Maximum grant amount, form of grant and reimbursement rate
- Article 6 Lump sum specific form of costs
- Article 7 Specific provision SME instrument Phase 1
- Article 8, 12, 14, 15, 16, 23a-33, 37, 39 (not applicable)
- Article 10 SME instrument Phase 1 specific provision for purchase
- Article 13 SME instrument Phase 1 specific provision subcontracting
- Article 18 SME instrument Phase 1 specific provision for record-keeping
- Article 20 SME instrument Phase 1 specific reporting provisions
- Article 21 SME instrument Phase 1 specific payment provisions
- Article 36 SME instrument Phase 1 specific provision on confidentiality
- Article 38 SME instrument Phase 1 specific provision on promoting the action
- Article 42 SME instrument Phase 1 specific provision for lump-sum
- Article 50 SME instrument Phase 1 specific provision for lump-sum
- Annex 2 Model for the estimated budget for the action
- Annex 4 Model for the financial statement

<sup>1</sup> SME Instrument Phase 1 grants fund small and medium sized enterprises ('SMEs') which explore the feasibility and commercial potential and viability of new breakthrough ideas (proof of concept) (new products, processes, services and technologies or new market applications of existing technologies).

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

- Footnotes **in yellow** will appear in the text generated by the IT system for signature (since they contain definitions or references to legal documents). The other footnotes will not stay in the text (since they are internal instructions only).
- Text in **grey** indicates that text which figures in the Multi-beneficiary General MGA is not applicable.
- For options [*in italics, in square brackets*]: the applicable option must be chosen in the IT system. Options not chosen will automatically either not appear or appear as 'not applicable'. Options chosen will appear *in italics* without brackets and without the Option title (to allow beneficiaries to easily spot that a specific rule applies).
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styles

<u>CHAPTER</u>	style 'Chapter'
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<u>ARTICLE 1</u>	style 'Article'
<b>ARTICLE 9</b>	style 'Article grey'
<b>4.1 Estimated budget</b>	style 'Subarticle'
<b>26.2 Joint ownership</b>	style 'Subarticle grey'
<b>Text (without list)</b>	style 'Normal'
<b>Table of Content levels</b>	style 'TOC 1', 'TOC 2', 'TOC 3', 'TOC 4', 'TOC 5'
<b>Footnotes: Paragraph - special (hanging 0,5)</b>	( 'Times New Roman', '10 pt')

attention: Text with a list must be formatted manually ('Times New Roman', '12 pt', 'Justified', no space before or after paragraph, line spacing Single)

Not applicable Articles and Subarticles must be formatted as 'Article grey' and 'Subarticle grey' in order not to appear in the Table of Contents

## GRANT AGREEMENT

NUMBER [insert number] — [insert acronym]

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

**on the one part,**

*[OPTION 1: the European Union ('the EU', represented by the European Commission ('the Commission')<sup>2</sup>,]*

*[OPTION 2: the European Atomic Energy Community ('Euratom'), represented by the European Commission ('the Commission'),]*

*[OPTION 3: the [Research Executive Agency (REA)] [European Research Council Executive Agency (ERCEA)] [Innovation and Networks Executive Agency (INEA)] [Executive Agency for Small and Medium-sized Enterprises (EASME)] ('the Agency'), under the powers delegated by the European Commission ('the Commission'),]*

represented for the purposes of signature of this Agreement by [[function, [Directorate-General, Directorate, Unit] [Department]], [forename and surname],<sup>3</sup>

<sup>2</sup> Text in *italics* shows the options of the Model Grant Agreement that are applicable to this Agreement.

and

on the other part,

‘the beneficiary’:

*[[full official name (short name)][legal form], [official registration No], established in [official address in full], [VAT number], represented for the purposes of signing the Agreement by [function, forename and surname] ]*

*[OPTION if the JRC is the beneficiary: the Joint Research Centre (JRC) established in [official address in full], if it signs the administrative arrangement (see Annex 3b)].*

The parties referred to above have agreed to enter into the Agreement under the terms and conditions below.

By signing [*OPTION by default: the Agreement*] [*OPTION if the JRC is the beneficiary: the administrative arrangement*], the beneficiary accepts the grant and agrees to implement the action under its responsibility and in accordance with the Agreement, with all the obligations and conditions it sets out.

The Agreement is composed of:

Terms and Conditions

Annex 1	Description of the action
Annex 2	Estimated budget for the action
Annex 3	Not applicable
Annex 4	Model financial statements
Annex 5	Not applicable
Annex 6	Not applicable

## TERMS AND CONDITIONS

### TABLE OF CONTENTS

CHAPTER 1	GENERAL .....	8
	ARTICLE 1 — SUBJECT OF THE AGREEMENT .....	8
CHAPTER 2	ACTION .....	8

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<sup>3</sup> The person representing the [Commission][Agency] must be an authorising officer (by delegation or sub-delegation) designated in accordance with document 60008 of 22.2.2001 ‘Mise en place de la Charte des ordonnateurs’.

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION] .....	8
ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION .....	9
ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS .....	9
4.1 Estimated budget .....	9
4.2 Budget transfers .....	9
<b>CHAPTER 3 GRANT .....</b>	<b>9</b>
ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS .....	9
5.1 Maximum grant amount .....	9
5.2 Form of grant, reimbursement rate and form of costs .....	9
5.3 Final grant amount — Calculation .....	9
5.4 Revised final grant amount — Calculation .....	10
ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS .....	10
6.1 Eligible costs .....	10
6.2 Ineligible costs .....	11
6.3 Consequences of declaration of ineligible costs .....	11
<b>CHAPTER 4 RIGHTS AND OBLIGATIONS OF THE PARTIES .....</b>	<b>11</b>
<b>SECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE ACTION .....</b>	<b>11</b>
ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION .....	11
7.1 General obligation to properly implement the action .....	11
7.2 Consequences of non-compliance .....	11
ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION .....	11
ARTICLE 9 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING .....	12
ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES .....	12
10.1 Rules for purchasing goods, works or services .....	12
10.2 Consequences of non-compliance .....	12
ARTICLE 11 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT .....	12
ARTICLE 12 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE .....	12
ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS .....	12
13.1 Rules for subcontracting action tasks .....	12
13.2 Consequences of non-compliance .....	13
ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES .....	13
ARTICLE 15 — FINANCIAL SUPPORT TO THIRD PARTIES .....	13
ARTICLE 16 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURE .....	13
<b>SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION 13</b>	
ARTICLE 17 — GENERAL OBLIGATION TO INFORM .....	13
17.1 Obligation to provide information upon request .....	13
17.2 Obligation to keep information up to date and to inform about events and circumstances likely to affect the Agreement .....	13

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

17.3	Consequences of non-compliance.....	14
ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION.....		14
18.1	Obligation to keep records and other supporting documentation to support the costs declared .....	14
18.2	Consequences of non-compliance.....	14
ARTICLE 19 — SUBMISSION OF DELIVERABLES.....		15
19.1	Obligation to submit deliverables .....	15
19.2	Consequences of non-compliance.....	15
ARTICLE 20 — REPORTING — PAYMENT REQUESTS.....		15
20.1	General obligation to submit the report.....	15
20.2	Reporting period .....	15
20.3	Periodic reports — Requests for interim payments.....	15
20.4	Final report — Request for payment of the balance .....	15
20.5	Information on cumulative expenditure incurred.....	16
20.6	Currency for financial statements .....	16
20.7	Language of report.....	16
20.8	Consequences of non-compliance — Suspension of the payment deadline — Termination .	16
ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS .....		16
21.1	Payments to be made.....	16
21.2	Pre-financing payment — Amount — Amount retained for the Guarantee Fund.....	17
21.3	Interim payments — Amount — Calculation .....	17
21.4	Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund.....	17
21.5	Notification of amounts due.....	18
21.6	Currency for payments.....	18
21.7	Payments to the beneficiary .....	18
21.8	Bank account for payments.....	18
21.9	Costs of payment transfers.....	19
21.10	Date of payment.....	19
21.11	Consequences of non-compliance.....	19
ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS .....		20
22.1	Checks, reviews and audits by the Commission [ <i>and the Agency</i> ].....	20
22.2	Investigations by the European Anti-Fraud Office (OLAF) .....	22
22.3	Checks and audits by the European Court of Auditors (ECA).....	22
22.4	Checks, reviews, audits and investigations for international organisations .....	22
22.5	Consequences of findings in checks, reviews, audits and investigations —Extension of findings.....	22
22.6	Consequences of non-compliance.....	24
ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION .....		24
23.1	Right to evaluate the impact of the action.....	24
23.2	Consequences of non-compliance.....	25
<b>SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS ...</b>		<b>25</b>

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

SUBSECTION 1 GENERAL .....	25
ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY .....	25
SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND .....	25
ARTICLE 24 — AGREEMENT ON BACKGROUND .....	25
ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND .....	25
SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO RESULTS .....	25
ARTICLE 26 — OWNERSHIP OF RESULTS .....	25
ARTICLE 27 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING .....	25
ARTICLE 28 — EXPLOITATION OF RESULTS .....	26
ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING .....	26
ARTICLE 30 — TRANSFER AND LICENSING OF RESULTS .....	26
ARTICLE 31 — ACCESS RIGHTS TO RESULTS .....	26
<b>SECTION 4 OTHER RIGHTS AND OBLIGATIONS .....</b>	<b>26</b>
ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS .....	26
ARTICLE 33 — GENDER EQUALITY .....	26
ARTICLE 34 — ETHICS .....	26
34.1 General obligation to comply with ethical principles .....	26
34.2 Activities raising ethical issues .....	27
34.3 Activities involving human embryos or human embryonic stem cells .....	27
34.4 Consequences of non-compliance .....	27
ARTICLE 35 — CONFLICT OF INTERESTS .....	28
35.1 Obligation to avoid a conflict of interests .....	28
35.2 Consequences of non-compliance .....	28
ARTICLE 36 — CONFIDENTIALITY .....	28
36.1 General obligation to maintain confidentiality .....	28
36.2 Consequences of non-compliance .....	29
ARTICLE 37 — SECURITY-RELATED OBLIGATIONS .....	29
ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING .....	29
38.1 Communication activities by beneficiaries .....	29
38.2 Communication activities by the [Commission][Agency] .....	29
38.3 Consequences of non-compliance .....	29
ARTICLE 39 — PROCESSING OF PERSONAL DATA .....	29
ARTICLE 40 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE [COMMISSION][AGENCY] .....	29
<b>CHAPTER 5 DIVISION OF THE BENEFICIARY’S ROLES AND RESPONSIBILITIES [— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION] .....</b>	<b>30</b>
ARTICLE 41 — DIVISION OF THE BENEFICIARY’S ROLES AND RESPONSIBILITIES [— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION] .....	30
41.1 Role and responsibility towards the [Commission][Agency] .....	30
41.2 Internal division of roles and responsibilities .....	30
41.3 Internal arrangements between beneficiaries — Consortium agreement .....	30

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

41.4	Relationship with complementary beneficiaries — Collaboration agreement .....	31
41.5	Relationship with partners of a joint action — Coordination agreement .....	31
<b>CHAPTER 6</b>	<b>REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES — DAMAGES — SUSPENSION — TERMINATION — FORCE MAJEURE.....</b>	<b>32</b>
<b>SECTION 1</b>	<b>REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES.....</b>	<b>32</b>
ARTICLE 42	— REJECTION OF INELIGIBLE COSTS.....	32
42.1	Conditions .....	32
42.2	Ineligible costs to be rejected — Calculation — Procedure.....	32
42.3	Effects .....	32
ARTICLE 43	— REDUCTION OF THE GRANT.....	33
43.1	Conditions .....	33
43.2	Amount to be reduced — Calculation — Procedure.....	33
43.3	Effects .....	33
ARTICLE 44	— RECOVERY OF UNDUE AMOUNTS .....	33
44.1	Amount to be recovered — Calculation — Procedure.....	33
ARTICLE 45	— ADMINISTRATIVE AND FINANCIAL PENALTIES .....	36
45.1	Conditions .....	36
45.2	Duration — Amount of penalty — Calculation .....	36
45.3	Procedure .....	37
<b>SECTION 2</b>	<b>LIABILITY FOR DAMAGES .....</b>	<b>37</b>
ARTICLE 46	— LIABILITY FOR DAMAGES .....	38
46.1	Liability of the [Commission][Agency] .....	38
46.2	Liability of the beneficiary.....	38
<b>SECTION 3</b>	<b>SUSPENSION AND TERMINATION.....</b>	<b>39</b>
ARTICLE 47	— SUSPENSION OF PAYMENT DEADLINE.....	39
47.1	Conditions .....	39
47.2	Procedure .....	39
ARTICLE 48	— SUSPENSION OF PAYMENTS.....	39
48.1	Conditions .....	40
48.2	Procedure .....	40
ARTICLE 49	— SUSPENSION OF THE ACTION IMPLEMENTATION.....	40
49.1	Suspension of the action implementation, by the beneficiary .....	40
49.2	Suspension of the action implementation, by the [Commission][Agency] .....	41
ARTICLE 50	— TERMINATION OF THE AGREEMENT .....	42
50.1	Termination of the Agreement, by the beneficiary .....	42
50.2	Termination of participation for one or more beneficiaries, by the beneficiaries .....	43
50.3	Termination of the Agreement, by the [Commission][Agency].....	43
<b>SECTION 4</b>	<b>FORCE MAJEURE .....</b>	<b>45</b>
ARTICLE 51	— FORCE MAJEURE .....	45
51.1	Force majeure.....	45
<b>CHAPTER 7</b>	<b>FINAL PROVISIONS .....</b>	<b>46</b>



H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

ARTICLE 52 — COMMUNICATION BETWEEN THE PARTIES.....	46
52.1 Form and means of communication.....	46
52.2 Date of communication.....	46
52.3 Addresses for communication.....	47
ARTICLE 53 — INTERPRETATION OF THE AGREEMENT .....	47
53.1 Precedence of the Terms and Conditions over the Annexes .....	47
53.2 Privileges and immunities.....	47
ARTICLE 54 — CALCULATION OF PERIODS, DATES AND DEADLINES.....	47
ARTICLE 55 — AMENDMENTS TO THE AGREEMENT.....	48
55.1 Conditions.....	48
55.2 Procedure .....	48
ARTICLE 56 — ACCESSION TO THE AGREEMENT.....	48
ARTICLE 57 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES .....	48
57.1 Applicable law .....	48
57.2 Dispute settlement.....	49
ARTICLE 58 — ENTRY INTO FORCE OF THE AGREEMENT .....	49

## **CHAPTER 1 GENERAL**

### **ARTICLE 1 — SUBJECT OF THE AGREEMENT**

This Agreement sets out the rights and obligations and the terms and conditions applicable to the grant awarded to the beneficiary for implementing the action set out in Chapter 2.

## **CHAPTER 2 ACTION**

### **ARTICLE 2 — ACTION TO BE IMPLEMENTED [— COMPLEMENTARY GRANT] [— JOINTLY FUNDED ACTION]**

The grant is awarded for the action entitled [insert title of the action] — [insert acronym] ('**action**'), as described in Annex 1.

*[OPTION for complementary grants if foreseen in the work programme: The grant is a 'complementary grant' to [the grant agreement(s) under the call(s) for proposals [call identifier(s): H2020 — theme —]] [the following complementary grant agreement(s) No(s):*

- [insert number] [insert acronym]
- [insert number] [insert acronym]].]

*[OPTION for joint actions (joint call with a third country or an international organisation): The action is a 'jointly funded action' which must be coordinated with the 'joint action' called [insert the name of the third country or international organisation action], as described in Annex 1.]*

## ARTICLE 3 — DURATION AND STARTING DATE OF THE ACTION

The duration of the action will be *[insert number]* months as of *[OPTION by default: the first day of the month following the date the Agreement enters into force (see Article 58)]* *[OPTION if needed for the action: insert date]*<sup>4</sup> ('starting date of the action').

## ARTICLE 4 — ESTIMATED BUDGET AND BUDGET TRANSFERS

### 4.1 Estimated budget

The 'estimated budget' for the action is set out in Annex 2.

It contains the estimated eligible costs and the form of costs (see Articles 5 and 6).

### 4.2 Budget transfers

Not applicable

## CHAPTER 3 GRANT

## ARTICLE 5 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS

### 5.1 Maximum grant amount

The maximum grant amount is **EUR 50 000** (fifty thousand euros).

### 5.2 Form of grant, reimbursement rate and form of costs

The grant reimburses **70%** of the action's eligible costs (see Article 6) ('reimbursement of eligible costs grant') (see Annex 2).

The estimated eligible costs of the action are **EUR 71 429** (seventy one thousand four hundred and twenty nine).

Eligible costs (see Article 6) for the **costs for the feasibility study** must be declared as the lump sum set out in Annex 2 (i.e. under the form of 'lump sum costs').

### 5.3 Final grant amount — Calculation

The final grant amount depends on the proper implementation of the action in accordance with the Agreement's terms and conditions.

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<sup>4</sup> This date must always be the first day of a month and it must be later than the date of entry into force of the agreement unless authorised otherwise by the authorising officer, if the applicant can demonstrate the need to start the action before the entry into force of the grant agreement. In any case, the starting date should not be earlier than the date of the submission of the grant application (Article 130 FR).

This **amount** is calculated by the [Commission][Agency] — when the payment of the balance is made (see Article 21) — in the following steps:

Step 1 – Application of the reimbursement rate

Step 2 – Reduction due to breach of obligations

### 5.3.1 Step 1 — Application of the reimbursement rates to the eligible costs

The reimbursement rate (see Article 5.2) is applied to the eligible costs (lump sum costs; see Article 6) declared by the beneficiary and approved by the [Commission][Agency] (see Article 21).

### 5.3.2 Step 2 — Reduction due to improper implementation or breach of other obligations — Reduced maximum grant amount — Calculation

If the grant is reduced (see Article 43), the [Commission][Agency] will calculate the reduced maximum grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the action or to the seriousness of the breach of obligations in accordance with Article 43.2) from the maximum grant amount set out in Article 5.1.

In this case, the final grant amount will be the lower of the following two:

- the amount obtained in Step 1 or
- the amount obtained in Step 2.

## 5.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 22) — the [Commission][Agency] rejects costs (see Article 42) or reduces the grant (see Article 43), it will calculate the '**revised final grant amount**'.

This **amount** is calculated by the [Commission][Agency] on the basis of the findings, as follows:

- in case of **rejection of costs**: by applying the reimbursement rate to the revised eligible costs approved by the [Commission][Agency];
- in case of **reduction of the grant**: in proportion to its improper implementation of the action or to the seriousness of its breach of obligations (see Article 43.2).

In case of **rejection of costs and reduction of the grant**, the revised final grant amount will be the lower of the two amounts above.

## ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

### 6.1 Eligible costs

**A. Costs for the feasibility study (direct and indirect costs)** are eligible ('eligible costs'), if they correspond to the lump sum set out in Annex 2 and if the corresponding tasks or parts of the action have been properly implemented in accordance with Annex 1.

## **6.2 Ineligible costs**

'Ineligible costs' are:

- (a) costs that do not comply with the conditions set out above (see Article 6.1) and
- (b) costs reimbursed under another EU or Euratom grant (including grants awarded by a Member State and financed by the EU or Euratom budget and grants awarded by bodies other than the [Commission][Agency] for the purpose of implementing the EU and Euratom budget.

## **6.3 Consequences of declaration of ineligible costs**

Declared costs that are ineligible will be rejected (see Article 42).

This may also lead to any of the other measures described in Chapter 6.

# **CHAPTER 4 RIGHTS AND OBLIGATIONS OF THE PARTIES**

## **SECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE ACTION**

### **ARTICLE 7 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE ACTION**

#### **7.1 General obligation to properly implement the action**

The beneficiary must implement the action as described in Annex 1 and in compliance with the provisions of the Agreement and all legal obligations under applicable EU, international and national law.

#### **7.2 Consequences of non-compliance**

If the beneficiary does not properly implement the action (or part of it), the corresponding costs will be ineligible (see Article 6) and will be rejected (see Article 42).

If the beneficiary breaches any other obligation, the grant may be reduced (see Article 43).

This may also lead to any of the other measures described in Chapter 6.

### **ARTICLE 8 — RESOURCES TO IMPLEMENT THE ACTION**

Not applicable

## **ARTICLE 9 — IMPLEMENTATION OF ACTION TASKS BY BENEFICIARIES NOT RECEIVING EU FUNDING**

Not applicable

## **ARTICLE 10 — PURCHASE OF GOODS, WORKS OR SERVICES**

### **10.1 Rules for purchasing goods, works or services**

If necessary to implement the action, the beneficiary may purchase goods, works or services.

The beneficiary must make such purchases ensuring the best value for money or, if appropriate, the lowest price. In doing so, it must avoid any conflict of interests (see Article 35).

The beneficiary must ensure that the Commission [*and the Agency*], the European Court of Auditors (ECA) and the European Anti-fraud Office (OLAF) can exercise their rights under Articles 22 and 23 also towards their contractors.

### **10.2 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

## **ARTICLE 11 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT**

Not applicable

## **ARTICLE 12 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE**

Not applicable

## **ARTICLE 13 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS**

### **13.1 Rules for subcontracting action tasks**

If necessary to implement the action, the beneficiary may award subcontracts covering the implementation of certain action tasks described in Annex 1.

The beneficiary must award the subcontracts ensuring the best value for money or, if appropriate, the lowest price. In doing so, it must avoid any conflict of interests (see Article 35).

The beneficiary must ensure that the Commission [*and the Agency*], the European Court of Auditors (ECA) and the European Anti-fraud Office (OLAF) can exercise their rights under Articles 22 and 23 also towards their subcontractors.

The beneficiary must ensure that its obligations under Articles 35, 36, 38 and 46 also apply to the subcontractors.

### **13.2 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

#### **ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES**

Not applicable

#### **ARTICLE 15 — FINANCIAL SUPPORT TO THIRD PARTIES**

Not applicable

#### **ARTICLE 16 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURE**

Not applicable

### **SECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION**

#### **ARTICLE 17 — GENERAL OBLIGATION TO INFORM**

##### **17.1 Obligation to provide information upon request**

The beneficiary must provide — during implementation of the action or afterwards — any information requested in order to verify proper implementation of the action and compliance with the obligations under the Agreement.

##### **17.2 Obligation to keep information up to date and to inform about events and circumstances likely to affect the Agreement**

The beneficiary must keep information stored in the ‘Beneficiary Register’ (in the electronic exchange system; see Article 52) up to date, in particular, its name, address, legal representatives, legal form and organisation type.

The beneficiary must immediately inform the *[Commission][Agency]* of any of the following:

- (a) **events** which are likely to affect significantly or delay the implementation of the action or the EU's financial interests, in particular:

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

- (i) changes in its legal, financial, technical, organisational or ownership situation [*or those of its linked third parties and*
  - (ii) *changes in the name, address, legal form, organisation type of its linked third parties;*]
- (b) **circumstances** affecting:
- (i) the decision to award the grant or
  - (ii) compliance with requirements under the Agreement.

### **17.3 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

## **ARTICLE 18 — KEEPING RECORDS — SUPPORTING DOCUMENTATION**

### **18.1 Obligation to keep records and other supporting documentation to support the costs declared**

The beneficiary must — for a period of three years after the balance is paid — keep adequate records and other supporting documentation to prove that the corresponding tasks or part of the action as described in Annex 1 have been implemented properly. The beneficiary does not need to identify the actual eligible costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared as the lump sum.

It must make them available upon request (see Article 17) or in the context of checks, reviews, audits or investigations (see Article 22).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under the Agreement (including the extension of findings; see Articles 22), the beneficiary must keep the records and other supporting documentation until the end of these procedures.

The beneficiary must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. The [Commission][Agency] may accept non-original documents if it considers that they offer a comparable level of assurance

### **18.2 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, costs insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 42).

Such breaches may also lead to any of the other measures described in Chapter 6.

## ARTICLE 19 — SUBMISSION OF DELIVERABLES

### 19.1 Obligation to submit deliverables

The beneficiary must submit the ‘**deliverables**’ identified in Annex 1, in accordance with the timing and conditions set out in it.

### 19.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the [Commission][Agency] may apply any of the measures described in Chapter 6.

## ARTICLE 20 — REPORTING — PAYMENT REQUESTS

### 20.1 General obligation to submit the report

The beneficiary must submit to the [Commission][Agency] (see Article 52) the final report, including a request for payment.

The report must be drawn up using the forms and templates provided by the [Commission][Agency] in the electronic exchange system (see Article 52).

### 20.2 Reporting period

The action has one reporting period:

- RP1: from month 1 to month

### 20.3 Periodic reports — Requests for interim payments

Not applicable

### 20.4 Final report — Request for payment of the balance

The beneficiary must submit to the [Commission][Agency] (see Article 52) — within 60 days following the end of the reporting period — a final report, which includes the request for payment of the balance.

The **final report** must include the following:

- (a) a ‘**final technical report**’ containing a **summary** with:
  - (i) an overview of the results;
  - (ii) the conclusions on the action;
  - (iii) the answers to the ‘**questionnaire**’, covering issues related to the action implementation and the economic and societal impact, notably in the context of the Horizon 2020 key performance indicators and the Horizon 2020 monitoring requirements.



- (b) a ‘**final financial report**’ containing an ‘**individual financial statement**’ (see Annex 4), which includes the **request for payment of the balance**.

The individual financial statement must detail the eligible costs (lump sum costs; see Article 6 and Annex 2).

Amounts which are not declared in the individual financial statement will not be taken into account by the *[Commission][Agency]*.

The beneficiary must **certify** that:

- the information provided is full, reliable and true;
- the costs declared are eligible (i.e. that the action has been properly implemented; see Article 6);
- the costs (i.e. the proper implementation of the action) can be substantiated by adequate records and supporting documentation (see Article 18) that will be produced upon request (see Article 17) or in the context of checks, reviews, audits and investigations (see Article 22).

## 20.5 Information on cumulative expenditure incurred

Not applicable

## 20.6 Currency for financial statements

Financial statements must be drafted in euro.

## 20.7 Language of report

The report (technical and financial final report, including the financial statement) must be submitted in the language of the Agreement.

## 20.8 Consequences of non-compliance — Suspension of the payment deadline — Termination

If the report submitted does not comply with this Article, the *[Commission][Agency]* may suspend the payment deadline (see Article 47) and apply any of the other measures described in Chapter 6

If the beneficiary breaches its obligation to submit the reports and if it fails to comply with this obligation within 30 days following a written reminder sent by the *[Commission][Agency]*, the Agreement may be terminated (see Article 50).

## ARTICLE 21 — PAYMENTS AND PAYMENT ARRANGEMENTS

### 21.1 Payments to be made

The following payments will be made to the beneficiary:

- one **pre-financing payment**;
- one **payment of the balance**, on the basis of the request for payment of the balance (see Article 20).

## 21.2 Pre-financing payment — Amount — Amount retained for the Guarantee Fund

The aim of the pre-financing is to provide the beneficiary with a float.

It remains the property of the EU until the payment of the balance.

The amount of the pre-financing payment will be EUR [insert amount (insert amount in words)].

The [Commission][Agency] will — except if Article 48 applies — make the pre-financing payment to the beneficiary within 30 days from the starting date of the action (see Article 3) or from the entry into force of the Agreement (see Article 58), whichever is the latest.

An amount of EUR [insert amount (insert amount in words)], corresponding to 5% of the maximum grant amount (see Article 5.1), is retained by the [Commission][Agency] from the pre-financing payment and transferred into the ‘**Guarantee Fund**’

## 21.3 Interim payments — Amount — Calculation

Not applicable

## 21.4 Payment of the balance — Amount — Calculation — Release of the amount retained for the Guarantee Fund

The payment of the balance reimburses the remaining part of the eligible costs incurred by the beneficiary for the implementation of the action.

If the total amount of earlier payments is greater than the final grant amount (see Article 5.3), the payment of the balance takes the form of a recovery (see Article 44).

If the total amount of earlier payments is lower than the final grant amount, the [Commission][Agency] will pay the balance within 90 days from receiving the final report (see Article 20.4), except if Articles 47 or 48 apply.

Payment is subject to the approval of the final report. Its approval does not imply recognition of the compliance, authenticity, completeness or correctness of its content.

The **amount due as the balance** is calculated by the [Commission][Agency] by deducting the total amount of pre-financing and interim payments (if any) already made, from the final grant amount determined in accordance with Article 5.3:

Grant Agreement number: [insert number] [insert acronym] [insert call identifier of the master call]

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

{final grant amount (see Article 5.3)

minus

{pre-financing and interim payments (if any) made}}.

At the payment of the balance, the amount retained for the Guarantee Fund (see above) will be released and:

- if the balance is positive: the amount released will be paid in full to the beneficiary together with the amount due as the balance;
- if the balance is negative (payment of the balance taking the form of recovery): it will be deducted from the amount released (see Article 44.1.2). If the resulting amount:
  - is positive, it will be paid to the beneficiary
  - is negative, it will be recovered.

The amount to be paid may however be offset — without the beneficiary's consent — against any other amount owed to beneficiary by the Commission or an executive agency (from the EU or Euratom budget), up to the maximum EU contribution indicated, for the beneficiary, in the estimated budget (see Annex 2).

### **21.5 Notification of amounts due**

The [Commission][Agency] will formally notify to the beneficiary the amount due and specify the final grant amount.

In the case of reduction of the grant or recovery of undue amounts, the notification will be preceded by the contradictory procedure set out in Articles 43 and 44.

### **21.6 Currency for payments**

The [Commission][Agency] will make all payments in euro.

### **21.7 Payments to the beneficiary**

Payments will be made to the beneficiary.

Payments will discharge the [Commission][Agency] from its payment obligation.

### **21.8 Bank account for payments**

[OPTION by default: All payments will be made to the following bank account:

Name of bank: [...]

Address of branch: [...]

Full name of the account holder: [...]

Grant Agreement number: [insert number] [insert acronym] [insert call identifier of the master call]

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

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

[IBAN code: [...]]<sup>5</sup>

*[OPTION if the JRC is the beneficiary: All payments will be made in accordance with Annex 3b]*

## 21.9 Costs of payment transfers

The cost of the payment transfers is borne as follows:

- the [Commission][Agency] bears the cost of transfers charged by its bank;
- the beneficiary bears the cost of transfers charged by its bank;
- the party causing a repetition of a transfer bears all costs of the repeated transfer.

## 21.10 Date of payment

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

## 21.11 Consequences of non-compliance

21.11.1 If the [Commission][Agency] does not pay within the payment deadlines (see above), the beneficiary is entitled to **late-payment interest** at the rate applied by the European Central Bank (ECB) for its main refinancing operations in euros ('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 payment deadline expires, as published in the C series of the *Official Journal of the European Union*.

If the late-payment interest is lower than or equal to EUR 200, it will be paid to the beneficiary only upon request submitted within two months of receiving the late payment.

Late-payment interest is not due if the beneficiary is an EU Member State (including regional and local government authorities or other public bodies acting on behalf of a Member State for the purpose of this Agreement).

Suspension of the payment deadline or payments (see Articles 47 and 48) will not be considered as late payment.

Late-payment interest covers the period running from the day following the due date for payment (see above), up to and including the date of payment.

Late-payment interest is not considered for the purposes of calculating the final grant amount.

### 21.11.2 Not applicable

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<sup>5</sup> BIC or SWIFT code applies to for countries if the IBAN code does not apply.

## ARTICLE 22 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

### 22.1 Checks, reviews and audits by the Commission [*and the Agency*]

#### 22.1.1 Right to carry out checks

The Commission [*or the Agency*] will — during the implementation of the action or afterwards — check the proper implementation of the action and compliance with the obligations under the Agreement, including assessing deliverables and reports.

For this purpose the Commission [*or the Agency*] may be assisted by external persons or bodies.

The Commission [*or the Agency*] may also request additional information in accordance with Article 17. The Commission [*or the Agency*] may request the beneficiary to provide such information to it directly.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

#### 22.1.2 Right to carry out reviews

The Commission [*or the Agency*] may — during the implementation of the action or afterwards — carry out reviews on the proper implementation of the action (including assessment of deliverables and reports), compliance with the obligations under the Agreement and continued scientific or technological relevance of the action.

Reviews may be started **up to two years after the payment of the balance**. They will be formally notified to the beneficiary and will be considered to have started on the date of the formal notification.

If the review is carried out on a third party (see Articles 10 to 16), the beneficiary must inform the third party.

The Commission [*or the Agency*] may carry out reviews directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the beneficiary of the identity of the external persons or bodies. It has the right to object to the appointment on grounds of commercial confidentiality.

The beneficiary must provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources). The Commission [*or the Agency*] may request the beneficiary to provide such information to it directly.

The beneficiary may be requested to participate in meetings, including with external experts.

For **on-the-spot** reviews, the beneficiary must allow access to its sites and premises, including to external persons or bodies, and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the review findings, a '**review report**' will be drawn up.

The Commission *[or the Agency]* will formally notify the review report to the beneficiary, which has 30 days to formally notify observations ('**contradictory review procedure**').

Reviews (including review reports) are in the language of the Agreement.

### 22.1.3 Right to carry out audits

The Commission *[or the Agency]* may — during the implementation of the action or afterwards — carry out audits on the proper implementation of the action and compliance with the obligations under the Agreement.

Audits may be started **up to two years after the payment of the balance**. They will be formally notified to the beneficiary and will be considered to have started on the date of the formal notification.

If the audit is carried out on a third party (see Articles 10 to 16), the beneficiary must inform the third party.

The Commission *[or the Agency]* may carry out audits directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the beneficiary of the identity of the external persons or bodies. It has the right to object to the appointment on grounds of commercial confidentiality.

The beneficiary must provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Agreement. The Commission *[or the Agency]* may request the beneficiary to provide such information to it directly.

For **on-the-spot** audits, the beneficiary must allow access to its sites and premises, including to external persons or bodies, and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the audit findings, a '**draft audit report**' will be drawn up.

The Commission *[or the Agency]* will formally notify the draft audit report to the beneficiary, which has 30 days to formally notify observations ('**contradictory audit procedure**'). This period may be extended by the Commission *[or the Agency]* in justified cases.

The '**final audit report**' will take into account observations by the beneficiary. The report will be formally notified to it.

Audits (including audit reports) are in the language of the Agreement.

The Commission [*or the Agency*] may also access the beneficiary' statutory records for the periodical assessment of unit costs or flat-rate amounts [*or lump sums*].

## **22.2 Investigations by the European Anti-Fraud Office (OLAF)**

Under Regulations No 883/2013 <sup>6</sup>and No 2185/96<sup>7</sup> (and in accordance with their provisions and procedures), the European Anti-Fraud Office (OLAF) may — at any moment during implementation of the action or afterwards — carry out investigations, including on-the-spot checks and inspections, to establish whether, concerning the action funded under the Agreement, there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU.

## **22.3 Checks and audits by the European Court of Auditors (ECA)**

Under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 161 of the Financial Regulation No 966/2012<sup>8</sup>, the European Court of Auditors (ECA) may — at any moment during implementation of the action or afterwards — carry out audits.

The ECA has the right of access for the purpose of checks and audits.

## **22.4 Checks, reviews, audits and investigations for international organisations**

*[OPTION for international organisations: In conformity with its financial regulations, the European Union, including the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA), may undertake, including on the spot, checks, reviews audits and investigations.*

*This Article will be applied in accordance with any specific agreement concluded in this respect by the international organisation and the European Union.]*

*[OPTION: not applicable]*

## **22.5 Consequences of findings in checks, reviews, audits and investigations — Extension of findings**

### **22.5.1 Findings in this grant**

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to the rejection of ineligible costs (see Article 42), reduction of the grant (see

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<sup>6</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.09.2013, p. 1).

<sup>7</sup> Council Regulation (Euratom, EC) No 2185/1996 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 (OJ L 292, 15.11.1996, p. 2).

<sup>8</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 and repealing Council Regulation (EC, EURATOM) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

Article 43), recovery of undue amounts (see Article 44) or to any of the other measures described in Chapter 6.

Rejection of costs or reduction of the grant after the payment of the balance will lead to a revised final grant amount (see Article 5.4).

Findings in checks, reviews, audits or investigations may lead to a request for amendment for the modification of Annex 1 (see Article 55).

Checks, reviews, audits or investigations that find systemic or recurrent errors, irregularities, fraud or breach of obligations may also lead to consequences in other EU or Euratom grants awarded under similar conditions (**‘extension of findings from this grant to other grants’**).

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

### 22.5.2 Findings in other grants

The Commission [*or the Agency*] may extend findings from other grants to this grant (**‘extension of findings from other grants to this grant’**), if:

- (a) the beneficiary is found, in other EU or Euratom grants awarded 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) those findings are formally notified to the beneficiary — together with the list of grants affected by the findings — no later than two years after the payment of the balance of this grant.

The extension of findings may lead to the rejection of costs (see Article 42), reduction of the grant (see Article 43), recovery of undue amounts (see Article 44), suspension of payments (see Article 48), suspension of the action implementation (see Article 49) or termination (see Article 50).

### 22.5.3 Procedure

The Commission [*or the Agency*] will formally notify the beneficiary the systemic or recurrent errors, together with the list of grants affected by the findings.

22.5.3.1 If the findings concern **eligibility of costs**: the formal notification will include:

- (a) an invitation to submit observations on the list of grants affected by the findings;
- (b) the request to submit **revised financial statements** for all grants affected;
- (c) the **correction rate for extrapolation** established by the Commission [*or the Agency*] on the basis of the systemic or recurrent errors, to calculate the amounts to be rejected if the beneficiary:



H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

- (i) considers that the submission of revised financial statements is not possible or practicable or
- (ii) does not submit revised financial statements.

The beneficiary has 90 days from receiving notification to submit observations, revised financial statements or to propose a duly substantiated **alternative correction method**. This period may be extended by the Commission [*or the Agency*] in justified cases.

The Commission [*or the Agency*] will determine the amounts to be rejected on the basis of the revised financial statements, subject to their approval.

If the Commission [*or the Agency*] does not receive any observations or revised financial statements, does not accept the observations or the proposed alternative correction method or does not approve the revised financial statements, it will formally notify the beneficiary the application of the initially notified correction rate for extrapolation.

If the Commission [*or the Agency*] accepts the alternative correction method proposed by the beneficiary, it will formally notify the application of the accepted alternative correction method.

22.5.3.2 If the findings concern **improper implementation** or a **breach of another obligation**: the formal notification will include:

- (a) an invitation to submit observations on the list of grants affected by the findings and
- (b) the flat-rate the Commission [*or the Agency*] intends to apply according to the principle of proportionality.

The beneficiary has 90 days from receiving notification to submit observations or to propose a duly substantiated alternative flat-rate.

If the Commission [*or the Agency*] does not receive any observations or does not accept the observations or the proposed alternative flat-rate, it will formally notify the beneficiary the application of the initially notified flat-rate.

If the Commission [*or the Agency*] accepts the alternative flat-rate proposed by the beneficiary, it will formally notify the application of the accepted alternative flat-rate.

## 22.6 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, any insufficiently substantiated costs will be ineligible (see Article 6) and will be rejected (see Article 42).

Such breaches may also lead to any of the other measures described in Chapter 6.

## ARTICLE 23 — EVALUATION OF THE IMPACT OF THE ACTION

### 23.1 Right to evaluate the impact of the action

Grant Agreement number: [insert number] [insert acronym] [insert call identifier of the master call]

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

The Commission [*or the Agency*] may carry out interim and final evaluations of the impact of the action measured against the objective of the [EU][Euratom] programme.

Evaluations may be started during implementation of the action and up to [*OPTION by default: five*][*OPTION for low value grants: three*] years after the payment of the balance. The evaluation is considered to start on the date of the formal notification to the beneficiary.

The Commission [*or the Agency*] may make these evaluations directly (using its own staff) or indirectly (using external bodies or persons it has authorised to do so).

The beneficiary must provide any information relevant to evaluate the impact of the action, including information in electronic format.

## **23.2 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the Commission [*or the Agency*] may apply the measures described in Chapter 6.

## **SECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS**

### **SUBSECTION 1 GENERAL**

#### **ARTICLE 23a — MANAGEMENT OF INTELLECTUAL PROPERTY**

Not applicable

### **SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND**

#### **ARTICLE 24 — AGREEMENT ON BACKGROUND**

Not applicable

#### **ARTICLE 25 — ACCESS RIGHTS TO BACKGROUND**

Not applicable

### **SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO RESULTS**

#### **ARTICLE 26 — OWNERSHIP OF RESULTS**

Not applicable

#### **ARTICLE 27 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING**

Not applicable

## **ARTICLE 28 — EXPLOITATION OF RESULTS**

Not applicable

## **ARTICLE 29 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EU FUNDING**

Not applicable

## **ARTICLE 30 — TRANSFER AND LICENSING OF RESULTS**

Not applicable

## **ARTICLE 31 — ACCESS RIGHTS TO RESULTS**

Not applicable

## **SECTION 4 OTHER RIGHTS AND OBLIGATIONS**

### **ARTICLE 32 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS**

Not applicable

### **ARTICLE 33 — GENDER EQUALITY**

Not applicable

### **ARTICLE 34 — ETHICS**

#### **34.1 General obligation to comply with ethical principles**

The beneficiary must carry out the action in compliance with:

(a) ethical principles (including the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity<sup>9</sup> — and including, in particular, avoiding fabrication, falsification, plagiarism or other research misconduct) and

(b) applicable international, EU and national law.

Funding will not be granted for activities carried out outside the EU if they are prohibited in all Member States.

The beneficiary must ensure that the activities under the action have an exclusive focus on civil applications.

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<sup>9</sup> The European Code of Conduct for Research Integrity of ALLEA (All European Academies) and ESF (European Science Foundation) of March 2011.  
[http://www.esf.org/fileadmin/Public\\_documents/Publications/Code\\_Conduct\\_ResearchIntegrity.pdf](http://www.esf.org/fileadmin/Public_documents/Publications/Code_Conduct_ResearchIntegrity.pdf)

The beneficiary must ensure that the activities under the action do not:

- (a) aim at human cloning for reproductive purposes;
- (b) intend to modify the genetic heritage of human beings which could make such changes heritable (with the exception of research relating to cancer treatment of the gonads, which may be financed), or
- (c) intend to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.

### **34.2 Activities raising ethical issues**

Activities raising ethical issues must comply with the ‘**ethics requirements**’ set out in Annex 1.

Before the beginning of an activity raising an ethical issue, the beneficiary must submit (see Article 52) to the [Commission][Agency] copy of:

- (a) any ethics committee opinion required under national law and
- (b) any notification or authorisation for activities raising ethical issues required under national law.

If these documents are not in English, the beneficiary must also submit an English summary of the submitted opinions, notifications and authorisations (containing, if available, the conclusions of the committee or authority concerned).

If these documents are specifically requested for the action, the request must contain an explicit reference to the action title. The beneficiary must submit a declaration that all the submitted documents cover the action tasks.

### **34.3 Activities involving human embryos or human embryonic stem cells**

*[OPTION for activities potentially involving research on human embryos or human embryonic stem cells: Activities involving research on human embryos or human embryonic stem cells may be carried out only if:*

- *they are set out in Annex 1 or*
- *the beneficiary has obtained explicit approval (in writing) from the [Commission][Agency] (see Article 52).]*

*[OPTION: not applicable]*

### **34.4 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement may be terminated (see Article 50).

Such breaches may also lead to any of the other measures described in Chapter 6.

## ARTICLE 35 — CONFLICT OF INTERESTS

### 35.1 Obligation to avoid a conflict of interests

The beneficiary must take all measures to prevent any situation where the impartial and objective implementation of the action is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('**conflict of interests**').

It must formally notify to the [Commission][Agency] without delay any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

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

### 35.2 Consequences of non-compliance

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43) and the Agreement may be terminated (see Article 50).

Such breaches may also lead to any of the other measures described in Chapter 6.

## ARTICLE 36 — CONFIDENTIALITY

### 36.1 General obligation to maintain confidentiality

The parties must keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed ('**confidential information**').

They may use confidential information to implement the Agreement.

The confidentiality obligations no longer apply if:

- (a) the disclosing party agrees to release the other party;
- (b) the information was already known by the recipient or is given to him without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;
- (c) the recipient proves that the information was developed without the use of confidential information;
- (d) the information becomes generally and publicly available, without breaching any confidentiality obligation, or
- (e) the disclosure of the information is required by EU or national law.

## **36.2 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

## **ARTICLE 37 — SECURITY-RELATED OBLIGATIONS**

Not applicable

## **ARTICLE 38 — PROMOTING THE ACTION — VISIBILITY OF EU FUNDING**

### **38.1 Communication activities by beneficiaries**

The beneficiary must promote the action and its results.

Any communication activity related to the action must:

- (a) display the EU emblem and
- (b) include the following text:

“This project has received funding from the *[European Union’s Horizon 2020 research and innovation programme]**[Euratom research and training programme 2014-2018]* under grant agreement No [number]”.

Any communication activity related to the action must indicate that it reflects only the author’s view and that the *[Commission]**[Agency]* is not responsible for any use that may be made of the information it contains.

### **38.2 Communication activities by the *[Commission]**[Agency]***

Not applicable

### **38.3 Consequences of non-compliance**

If the beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 43).

Such breaches may also lead to any of the other measures described in Chapter 6.

## **ARTICLE 39 — PROCESSING OF PERSONAL DATA**

Not applicable

## **ARTICLE 40 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE *[COMMISSION]**[AGENCY]***

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

The beneficiary may not assign any of its claims for payment against the [Commission][Agency] to any third party, except if approved by the [Commission][Agency] on the basis of a reasoned, written request.

If the [Commission][Agency] has not accepted the assignment or the terms of it are not observed, the assignment will have no effect on it.

In no circumstances will an assignment release the beneficiary from its obligations towards the [Commission][Agency].

**CHAPTER 5 DIVISION OF THE BENEFICIARY'S ROLES AND RESPONSIBILITIES [— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION]**

**ARTICLE 41 — DIVISION OF THE BENEFICIARY'S ROLES AND RESPONSIBILITIES [— RELATIONSHIP WITH COMPLEMENTARY BENEFICIARIES] [— RELATIONSHIP WITH PARTNERS OF A JOINT ACTION]**

**41.1 Role and responsibility towards the [Commission][Agency]**

The beneficiary has full responsibility for implementing the action and complying with the Agreement.

The beneficiary is itself responsible for:

- (a) monitoring that the action is implemented properly (see Article 7);
- (b) informing the [Commission][Agency] immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 17);
- (c) submit the deliverables and reports to the [Commission][Agency] (see Articles 19 and 20);
- (d) submit to the [Commission][Agency] in good time any documents or information required by them

and may not subcontract these tasks to any third party.

**41.2 Internal division of roles and responsibilities**

Not applicable

**41.3 Internal arrangements between beneficiaries — Consortium agreement**

Not applicable

#### **41.4 Relationship with complementary beneficiaries — Collaboration agreement**

*[OPTION for complementary grants if foreseen in the work programme: The beneficiary must conclude a written ‘collaboration agreement’ with the complementary beneficiaries to coordinate the work under the Agreement and the complementary grant agreement(s) (see Article 2), covering for instance:*

- *efficient decision making processes and*
- *settlement of disputes.*

*The coordination agreement must not contain any provision contrary to the Agreement.*

*The beneficiary and complementary beneficiaries must create and participate in common boards and advisory structures to decide on collaboration and synchronisation of activities, including on management of outcomes, common approaches towards standardisation, SME involvement, links with regulatory and policy activities, and commonly shared dissemination and awareness raising activities.*

*The beneficiary must give access to its results to the complementary beneficiaries, for the purposes of the complementary grant agreement(s) (see Article 31.6).*

*The beneficiary must share the technical reports (see Article 20.3 and 20.4). The confidentiality obligations in Article 36 apply.]*

*[OPTION: not applicable]*

#### **41.5 Relationship with partners of a joint action — Coordination agreement**

*[OPTION for joint actions (joint call with a third country or an international organisation): The beneficiary must conclude a ‘coordination agreement’ with the partners of the third country or international organisation action (see Article 2), covering for instance:*

- *the internal organisation of the beneficiaries in both actions, including the decision making procedures;*
- *rules on intellectual property rights (for example regarding protection, dissemination, use and access rights);*
- *the settlement of internal disputes;*
- *liability, indemnification and confidentiality arrangements between the beneficiaries in both actions.*

*The coordination agreement must not contain any provision contrary to the Agreement.]*

*[OPTION: not applicable]*



**CHAPTER 6 REJECTION OF COSTS — REDUCTION OF THE GRANT —  
RECOVERY — PENALTIES — DAMAGES — SUSPENSION —  
TERMINATION — FORCE MAJEURE**

**SECTION 1 REJECTION OF COSTS — REDUCTION OF THE GRANT —  
RECOVERY — PENALTIES**

**ARTICLE 42 — REJECTION OF INELIGIBLE COSTS**

**42.1 Conditions**

42.1.1 The *[Commission][Agency]* will — at the time of an **interim payment, at the payment of the balance or afterwards** — reject any costs which are ineligible (see Article 6), in particular following checks, reviews, audits or investigations (see Article 22).

42.1.2 The rejection may also be based on the **extension of findings from other grants to this grant**, under the conditions set out in Article 22.5.2.

**42.2 Ineligible costs to be rejected — Calculation — Procedure**

Ineligible costs will be rejected proportionally to the tasks or parts of the action not implemented.

If the *[Commission][Agency]* rejects costs **without reduction of the grant** (see Article 43) or **recovery of undue amounts** (see Article 44), it will formally notify the beneficiary the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 21.5). The beneficiary may — within 30 days of receiving notification — formally notify the *[Commission][Agency]* of its disagreement and the reasons why.

If the *[Commission][Agency]* rejects costs **with reduction of the grant or recovery of undue amounts**, it will formally notify the rejection in the ‘**pre-information letter**’ on reduction or recovery set out in Articles 43 and 44.

**42.3 Effects**

If the *[Commission][Agency]* rejects costs at the time of an **interim payment or the payment of the balance**, it will deduct them from the total eligible costs declared, for the action, in the periodic or final summary financial statement (see Articles 20.3 and 20.4). It will then calculate the interim payment or payment of the balance as set out in Articles 21.3 or 21.4.

If the *[Commission][Agency]* — **after an interim payment but before the payment of the balance** — rejects costs declared in a periodic summary financial statement, it will deduct them from the total eligible costs declared, for the action, in the next periodic summary financial statement or in the final summary financial statement. It will then calculate the interim payment or payment of the balance as set out in Articles 21.3 or 21.4.

If the [Commission][Agency] rejects costs **after the payment of the balance**, it will deduct the amount rejected from the total eligible costs declared, in the final summary financial statement. It will then calculate the revised final grant amount as set out in Article 5.4.

## ARTICLE 43 — REDUCTION OF THE GRANT

### 43.1 Conditions

43.1.1 The [Commission][Agency] may — **at the payment of the balance or afterwards** — reduce the maximum grant amount (see Article 5.1), if the action has not been implemented properly as described in Annex 1 or another obligation under the Agreement has been breached.

43.1.2 The [Commission][Agency] may also reduce the maximum grant amount on the basis of the **extension of findings from other grants to this grant**, under the conditions set out in Article 22.5.2.

### 43.2 Amount to be reduced — Calculation — Procedure

The amount of the reduction will be proportionate to the improper implementation of the action or to the seriousness of the breach.

Before reduction of the grant, the [Commission][Agency] will formally notify a ‘**pre-information letter**’ to the beneficiary:

- informing it of its intention to reduce the grant, the amount it intends to reduce and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If the [Commission][Agency] does not receive any observations or decides to pursue reduction despite the observations it has received, it will formally notify **confirmation** of the reduction (if applicable, together with the notification of amounts due; see Article 21).

### 43.3 Effects

If the [Commission][Agency] reduces the grant at the time of **the payment of the balance**, it will calculate the reduced grant amount for the action and then determine the amount due as payment of the balance (see Articles 5.3.4 and 21.4).

If the [Commission][Agency] reduces the grant **after the payment of the balance**, it will calculate the revised final grant amount (see Article 5.4). If the revised final grant amount is lower than the final grant amount, the [Commission][Agency] will recover the difference (see Article 44).

## ARTICLE 44 — RECOVERY OF UNDUE AMOUNTS

### 44.1 Amount to be recovered — Calculation — Procedure

The [Commission][Agency] will — **at the payment of the balance** or **afterwards** — recover any amount that was paid but is not due under the Agreement.

#### 44.1.1 Recovery after termination of a beneficiary's participation

Not applicable

#### 44.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 21.4), the [Commission][Agency] will formally notify a '**pre-information letter**' to the beneficiary:

- informing it of its intention to recover, the amount due as the balance and the reasons why;
- specifying that it intends to deduct the amount to be recovered from the amount retained for the Guarantee Fund; and
- inviting it to submit observations within 30 days of receiving notification.

If no observations are submitted or the [Commission][Agency] decides to pursue recovery despite the observations it has received, it will **confirm recovery** (together with the notification of amounts due; see Article 21.5) and:

- pay the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is positive** or
- formally notify to the beneficiary a **debit note** for the difference between the amount to be recovered and the amount retained for the Guarantee Fund, **if the difference is negative**. This note will also specify the terms and the date for payment.

If payment is not made by the date specified in the debit note, the [Commission][Agency] will **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary by the Commission or an executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the [Commission][Agency] may offset before the payment date specified in the debit note;

- (b) by **drawing on the Guarantee Fund**. The [Commission][Agency] will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:
  - (i) *[OPTION if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]: if a linked third party has accepted joint and several liability (see Article 14), by **holding the third party liable up***

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013  
to the maximum EU contribution indicated, for the linked third party, in the  
estimated budget (see Annex 2) and/or][**OPTION**: not applicable]

- (ii) by **taking legal action** or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) [and Article 106a of the Euratom Treaty] (see Article 57).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 21.11, from the day following the payment date in the debit note, up to and including the date the [Commission][Agency] receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

#### **44.1.3 Recovery of amounts after payment of the balance**

If, the revised final grant amount (see Article 5.4) is lower than the final grant amount, it must repay the difference to the [Commission][Agency].

The [Commission][Agency] will formally notify a **pre-information letter** to the beneficiary:

- informing it of its intention to recover, the due amount and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If no observations are submitted or the [Commission][Agency] decides to pursue recovery despite the observations it has received, it will **confirm** the amount to be recovered and formally notify to the beneficiary a **debit note**. This note will also specify the terms and the date for payment.

If payment is not made by the date specified in the debit note, the [Commission][Agency] will **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary by the Commission or an executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the [Commission][Agency] may offset before the payment date specified in the debit note;

- (b) by **drawing on the Guarantee Fund**. The [Commission][Agency] will formally notify the beneficiary the debit note on behalf of the Guarantee Fund and recover the amount:

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

- (i) ***[OPTION if Article 14 applies and joint and several liability has been requested by the [Commission][Agency]: if a linked third party has accepted joint and several liability (see Article 14), by holding the third party liable up to the maximum EU contribution indicated, for the linked third party, in the estimated budget (see Annex 2) and/or] [OPTION: not applicable]***
- (ii) by **taking legal action** or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) *[and Article 106a of the Euratom Treaty]* (see Article 57).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 21.11, from the day following the date for payment in the debit note, up to and including the date the *[Commission][Agency]* receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

## **ARTICLE 45 — ADMINISTRATIVE AND FINANCIAL PENALTIES**

### **45.1 Conditions**

Under Articles 109 and 131(4) of the Financial Regulation No 966/2012, the *[Commission][Agency]* may impose **administrative** and **financial penalties** if the beneficiary:

- (a) has committed substantial errors, irregularities or fraud or is in serious breach of its obligations under the Agreement or
- (b) has made false declarations about information required under the Agreement or for the submission of the proposal (or has not supplied such information).

Under Article 109(3) of the Financial Regulation No 966/2012, the *[Commission][Agency]* may — under certain conditions and limits — publish decisions imposing administrative or financial penalties.

### **45.2 Duration — Amount of penalty — Calculation**

**Administrative penalties** exclude the beneficiary from all contracts and grants financed from the EU or Euratom budget for a maximum of five years from the date the infringement is established by the *[Commission][Agency]*.

If the beneficiary commits another infringement within five years of the date the first infringement is established, the *[Commission][Agency]* may extend the exclusion period up to 10 years.

**Financial penalties** will be between 2% and 10% of the maximum EU contribution in the estimated budget (see Annex 2).

If the beneficiary commits another infringement within five years of the date the first infringement is established, the [Commission][Agency] may increase the rate of financial penalties to between 4% and 20%.

### 45.3 Procedure

Before applying a penalty, the [Commission][Agency] will formally notify the beneficiary:

- informing it of its intention to impose a penalty, its duration or amount and the reasons why and
- inviting it to submit observations within 30 days.

If the [Commission][Agency] does not receive any observations or decides to impose the penalty despite of observations it has received, it will formally notify **confirmation** of the penalty to the beneficiary and — in case of financial penalties — deduct the penalty from the payment of the balance or formally notify a **debit note**, specifying the amount to be recovered, the terms and the date for payment.

If payment is not made by the date specified in the debit note, the [Commission][Agency] may **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary by the Commission or an executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the [Commission][Agency] may offset before the payment date in the debit note;

- (b) by **taking legal action** or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) [*and Article 106a of the Euratom Treaty*] (see Article 57).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 21.11, from the day following the payment date in the debit note, up to and including the date the [Commission][Agency] receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

## **SECTION 2 LIABILITY FOR DAMAGES**

## ARTICLE 46 — LIABILITY FOR DAMAGES

### 46.1 Liability of the [Commission][Agency]

The [Commission][Agency] cannot be held liable for any damage caused to the beneficiary (or to third parties) as a consequence of implementing the Agreement, including for gross negligence.

The [Commission][Agency] cannot be held liable for any damage caused by the beneficiary or third parties involved in the action, as a consequence of implementing the Agreement.

### 46.2 Liability of the beneficiary

#### 46.2.1 Conditions

Except in case of force majeure (see Article 51), the beneficiary must compensate the [Commission][Agency] for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement.

#### 46.2.2 Amount of damages — Calculation

The amount the [Commission][Agency] can claim from the beneficiary will correspond to the damage caused by it.

#### 46.2.3 Procedure

Before claiming damages, the [Commission][Agency] will formally notify the beneficiary:

- informing it of its intention to claim damages, the amount and the reasons why and
- inviting it to submit observations within 30 days.

If the [Commission][Agency] does not receive any observations or decides to claim damages despite the observations it has received, it will formally notify **confirmation** of the claim for damages and a **debit note**, specifying the amount to be recovered, the terms and the date for payment.

If payment is not made by the date specified in the debit note, the [Commission][Agency] may **recover** the amount:

- (a) by **offsetting** it — without the beneficiary's consent — against any amounts owed to the beneficiary by the Commission or an executive agency (from the EU or Euratom budget).

In exceptional circumstances, to safeguard the EU's financial interests, the [Commission][Agency] may offset before the payment date in the debit note;

- (b) by **taking legal action** or by **adopting an enforceable decision** under Article 299 of the Treaty on the Functioning of the EU (TFEU) [and Article 106a of the Euratom Treaty] (see Article 57).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 21.11, from the day following the payment date in the debit note, up to and including the date the [Commission][Agency] receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2007/64/EC applies.

## **SECTION 3 SUSPENSION AND TERMINATION**

### **ARTICLE 47 — SUSPENSION OF PAYMENT DEADLINE**

#### **47.1 Conditions**

The [Commission][Agency] may — at any moment — suspend the payment deadline (see Article 21.2 to 21.4) if a request for payment (see Article 20) cannot be approved because:

- (a) it does not comply with the provisions of the Agreement (see Article 20);
- (b) the technical reports or financial reports have not been submitted or are not complete or additional information is needed, or
- (c) there is doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

#### **47.2 Procedure**

The [Commission][Agency] will formally notify the beneficiary of the suspension and the reasons why.

The suspension will **take effect** the day notification is sent by the [Commission][Agency] (see Article 52).

If the conditions for suspending the payment deadline are no longer met, the suspension will be **lifted** — and the remaining period will resume.

If the suspension exceeds two months, the beneficiary may request the [Commission][Agency] if the suspension will continue.

If the payment deadline has been suspended due to the non-compliance of the technical or financial reports (see Article 20) and the revised report or statement is not submitted or was submitted but is also rejected, the [Commission][Agency] may also terminate the Agreement (see Article 50.3.1(1)).

### **ARTICLE 48 — SUSPENSION OF PAYMENTS**



## 48.1 Conditions

The [Commission][Agency] may — at any moment — suspend, in whole or in part, the pre-financing payment and interim payments or the payment of the balance, if the beneficiary:

- (a) has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under this Agreement or
- (b) has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (**extension of findings from other grants to this grant**; see Article 22.5.2).

## 48.2 Procedure

Before suspending payments, the [Commission][Agency] will formally notify the beneficiary:

- informing it of its intention to suspend payments and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

If the [Commission][Agency] does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify **confirmation** of the suspension. Otherwise, it will formally notify that the suspension procedure is not continued.

The suspension will **take effect** the day the confirmation notification is sent by the [Commission][Agency].

If the conditions for resuming payments are met, the suspension will be **lifted**. The Commission will formally notify the beneficiary.

During the suspension, the beneficiary must not submit a periodic report(s) (see Article 20.3). When the [Commission][Agency] resumes payments, the beneficiary may include them in the next periodic report.

The beneficiary may suspend implementation of the action (see Article 49.1) or terminate the Agreement (see Article 50.1 and 50.2).

## ARTICLE 49 — SUSPENSION OF THE ACTION IMPLEMENTATION

### 49.1 Suspension of the action implementation, by the beneficiary

#### 49.1.1 Conditions

The beneficiary may suspend implementation of the action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 51) — make implementation impossible or excessively difficult.

#### 49.1.2 Procedure

The beneficiary must immediately formally notify to the *[Commission][Agency]* the suspension (see Article 52), stating:

- the reasons why and
- the expected date of resumption.

The suspension will **take effect** the day this notification is received by the *[Commission][Agency]*.

Once circumstances allow for implementation to resume, the beneficiary must immediately formally notify the *[Commission][Agency]* and request an **amendment** of the Agreement to set the date on which the action will be resumed, extend the duration of the action and make other changes necessary to adapt the action to the new situation (see Article 55) — unless the Agreement has been terminated (see Article 50).

The suspension will be **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 suspension of the action implementation are not eligible (see Article 6).

#### 49.2 Suspension of the action implementation, by the *[Commission][Agency]*

##### 49.2.1 Conditions

The *[Commission][Agency]* may suspend implementation of the action or any part of it:

- (a) if the beneficiary has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under this Agreement;
- (b) if the beneficiary has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (**extension of findings from other grants to this grant**; see Article 22.5.2), or
- (c) if the action is suspected of having lost its scientific or technological relevance.

##### 49.2.2 Procedure

Before suspending implementation of the action, the *[Commission][Agency]* will formally notify the beneficiary:

- informing it of its intention to suspend the implementation and the reasons why and
- inviting it to submit observations within 30 days of receiving notification.

Grant Agreement number: [insert number] [insert acronym] [insert call identifier of the master call]

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

If the [Commission][Agency] does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify **confirmation** of the suspension. Otherwise, it will formally notify that the procedure is not continued.

The suspension will **take effect** five days after confirmation notification is received by the beneficiary (or on a later date specified in the notification).

It will be **lifted** if the conditions for resuming implementation of the action are met.

The beneficiary will be formally notified of the lifting and the Agreement will be **amended** to set the date on which the action will be resumed, extend the duration of the action and make other changes necessary to adapt the action to the new situation (see Article 55) — unless the Agreement has already been terminated (see Article 50).

The suspension will be 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 suspension are not eligible (see Article 6).

The beneficiary may not claim damages due to suspension by the [Commission][Agency] (see Article 46).

Suspension of the action implementation does not affect the [Commission's][Agency's] right to terminate the Agreement (see Article 50), reduce the grant or recover amounts unduly paid (see Articles 43 and 44).

## **ARTICLE 50 — TERMINATION OF THE AGREEMENT**

### **50.1 Termination of the Agreement, by the beneficiary**

#### **50.1.1 Conditions and procedure**

The beneficiary may terminate the Agreement.

The beneficiary must formally notify termination to the [Commission][Agency] (see Article 52), stating:

- the reasons why and
- the date the termination will take effect. This date must be after the notification.

If no reasons are given or if the [Commission][Agency] considers the reasons do not justify termination, the Agreement will be considered to have been '**terminated improperly**'.

The termination will **take effect** on the day specified in the notification.

#### **50.1.2 Effects**

The beneficiary must submit — within 60 days from when termination takes effect — the final report (see Article 20).

If the [Commission][Agency] does not receive the report within the deadline (see above), no costs will be reimbursed.

The [Commission][Agency] will **calculate the final grant amount** (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

In case of **improper termination**, the grant will be reduced by 100% (see Article 43).

## **50.2 Termination of participation for one or more beneficiaries, by the beneficiaries**

Not applicable

## **50.3 Termination of the Agreement, by the [Commission][Agency]**

### **50.3.1 Conditions**

The [Commission][Agency] may terminate the Agreement if:

- (a) not applicable;
- (b) a change to the beneficiary's legal, financial, technical, organisational or ownership situation [(or those of its linked third parties)] is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant;
- (c) not applicable;
- (d) implementation of the action is prevented by force majeure (see Article 51) or suspended by the beneficiary (see Article 49.1) and either:
  - (i) resumption is impossible, or
  - (ii) the necessary changes to the Agreement would call into question the decision awarding the grant or breach the principle of equal treatment of applicants;
- (e) the beneficiary is declared bankrupt, being wound up, having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, or is subject to any other similar proceedings or procedures under national law;
- (f) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has been found guilty of professional misconduct, proven by any means;
- (g) the beneficiary does not comply with the applicable national law on taxes and social security;
- (h) the action has lost scientific or technological relevance;

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

- (i) **[OPTION for joint actions (joint call with a third country or an international organisation):** *the third country or international organisation action (see Article 2) has not started by the date specified in Annex 1. ]***[OPTION: not applicable];**
- (j) **[OPTION for joint actions (joint call with a third country or an international organisation):** *the third country or international organisation action (see Article 2) is terminated or can no longer contribute to the action***[OPTION: not applicable];**
- (k) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed fraud, corruption, or is involved in a criminal organisation, money laundering or any other illegal activity affecting the EU's financial interests;
- (l) the beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has — in the award procedure or under the Agreement — committed:
  - (i) substantial errors, irregularities, fraud or
  - (ii) serious breach of obligations, including improper implementation of the action, submission of false information, failure to provide required information, breach of ethical principles;
- (m) the beneficiary has committed — in other EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (**'extension of findings from other grants to this grant'**).

### 50.3.2 Procedure

Before terminating the Agreement, the [Commission][Agency] will formally notify the beneficiary:

- informing it of its intention to terminate and the reasons why and
- inviting it, within 30 days of receiving notification, to submit observations and — in case of Point (l.ii) above — to inform the [Commission][Agency] of the measures to ensure compliance with the obligations under the Agreement.

If the [Commission][Agency] does not receive observations or decides to pursue the procedure despite the observations it has received, it will formally notify to the beneficiary **confirmation** of the termination and the date it will take effect. Otherwise, it will formally notify that the procedure is not continued.

The termination will **take effect**:

- for terminations under Points (b), (e), (g), (h), (j), and (l.ii) above: on the day specified in the notification (see above);
- for terminations under Points (d), (f), (i), (k), (l.i) and (m) above: on the day after notification is received by the beneficiary.

### **50.3.3 Effects**

The beneficiary must — within 60 days from when termination takes effect — submit the final report (see Article 20).

If the *[Commission][Agency]* does not receive the report within the deadline (see above), no costs will be reimbursed.

The *[Commission][Agency]* will calculate the final grant amount (see Article 5.3) and the balance (see Article 21), on the basis of the report submitted, the eligible costs and compliance with other obligations under the Agreement.

This does not affect the *[Commission's][Agency's]* right to reduce the grant (see Article 43) or to impose administrative and financial penalties (Article 45).

The beneficiary may not claim damages due to termination by the *[Commission][Agency]* (see Article 46).

## **SECTION 4 FORCE MAJEURE**

### **ARTICLE 51 — FORCE MAJEURE**

#### **51.1 Force majeure**

‘Force majeure’ means any situation or event that:

- prevents either party from fulfilling their obligations under the Agreement,
- was unforeseeable, exceptional situation and beyond the parties’ control,
- was not due to error or negligence on their part (or on the part of third parties involved in the action), and
- proves to be inevitable in spite of exercising all due diligence.

The following cannot be invoked as force majeure:

- 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,
- labour disputes or strikes, or
- financial difficulties.

Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

The party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.

## **CHAPTER 7 FINAL PROVISIONS**

### **ARTICLE 52 — COMMUNICATION BETWEEN THE PARTIES**

#### **52.1 Form and means of communication**

Communication under the Agreement (information, requests, submissions, ‘formal notifications’, etc.) must:

- be made in writing and
- bear the number of the Agreement.

**Until the payment of the balance:** all communication must be made through the electronic exchange system and using the forms and templates provided there.

**After the payment of the balance:** formal notifications must be made by registered post with proof of delivery (‘formal notification on paper’).

Communications in the electronic exchange system must be made by persons authorised according to the ‘Terms and Conditions of Use of the electronic exchange system’. For naming the authorised persons, the beneficiary must have designated to the [Commission][Agency] — before the signature of this Agreement — a ‘Legal Entity Appointed Representative (LEAR)’. The role and tasks of the LEAR are stipulated in his/her appointment letter (see Terms and Conditions of Use of the electronic exchange system).

If the electronic exchange system is temporarily unavailable, instructions will be given on the [Commission’s][Agency’s] websites.

#### **52.2 Date of communication**

**Communications** are considered to have been made when they are sent by the sending party (i.e. on the date and time they are sent through the electronic exchange system).

**Formal notifications** through the **electronic** exchange system are considered to have been made when they are received by the receiving party (i.e. on the date and time of acceptance by the receiving party, as indicated by the time stamp). A formal notification that has not been accepted within 10 days after sending is considered to have been accepted.

Formal notifications **on paper** sent by **registered post** with proof of delivery (only after the payment of the balance) are considered to have been made on either:

- the delivery date registered by the postal service or
- the deadline for collection at the post office.

If the electronic exchange system is temporarily unavailable, the sending party cannot be considered in breach of its obligation to send a communication within a specified deadline.

### 52.3 Addresses for communication

The **electronic** exchange system must be accessed via the following URL:

[insert URL]

The [Commission][Agency] will formally notify the beneficiary in advance any changes to this URL.

**Formal notifications on paper** (only after the payment of the balance) addressed **to the [Commission][Agency]** must be sent to the following address:

[European Commission][name of the Agency]  
[Directorate-General][Department] [complete]  
[Directorate [complete]]  
Unit [complete]  
[Post code, town and country]

Formal notifications on paper (only after the payment of the balance) addressed **to the beneficiary** must be sent to its legal address as specified in the Beneficiary Register (in the electronic exchange system).

## ARTICLE 53 — INTERPRETATION OF THE AGREEMENT

### 53.1 Precedence of the Terms and Conditions over the Annexes

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

The provisions in Annex 2 take precedence over Annex 1.

### 53.2 Privileges and immunities

*[OPTION for all international organisations: Nothing in the Agreement may be interpreted as a waiver of any privileges or immunities accorded to the [insert name of international organisation(s)] by its constituent documents or international law.]*

*[OPTION: not applicable]*

## ARTICLE 54 — CALCULATION OF PERIODS, DATES AND DEADLINES

In accordance with Regulation No 1182/71<sup>10</sup>, periods expressed in days, months or years are calculated from the moment the triggering event occurs.

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<sup>10</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8.6.1971, p. 1).



The day during which that event occurs is not considered as falling within the period.

## ARTICLE 55 — AMENDMENTS TO THE AGREEMENT

### 55.1 Conditions

The Agreement may be amended, unless the amendment entails changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

Amendments may be requested by any of the parties.

### 55.2 Procedure

The party requesting an amendment must submit a request for amendment signed in the electronic exchange system (see Article 52).

The request for amendment must include:

- the reasons why;
- the appropriate supporting documents, and

The [Commission][Agency] may request additional information.

If the party receiving the request agrees, it must sign the amendment in the electronic exchange system within 45 days of receiving notification (or any additional information the [Commission][Agency] has requested). If it does not agree, it must formally notify its disagreement within the same deadline. The deadline may be extended, if necessary for the assessment of the request. If no notification is received within the deadline, the request is considered to have been rejected.

An amendment **enters into force** on the day of the signature of the receiving party.

An amendment **takes effect** on the date agreed by the parties or, in the absence of such an agreement, on the date on which the amendment enters into force.

## ARTICLE 56 — ACCESSION TO THE AGREEMENT

Not applicable

## ARTICLE 57 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

### 57.1 Applicable law

The Agreement is governed by the applicable EU law, supplemented, if necessary by the law of Belgium. *[OPTION for international organisations that do not accept application of Union law: except for [insert name(s) of the international organisations concerned].]*

***[OPTION for international organisations that accept application of Union law but not Belgium law: For [insert name(s) of the international organisation concerned], the Agreement is governed by the applicable EU law supplemented if necessary by the law of [insert name of a Member State of an EFTA country] [and, where appropriate, by the rules of the general principles governing the law of international organisations and the rules of general international law].]***

## **57.2 Dispute settlement**

If a dispute concerning the interpretation, application or validity of the Agreement cannot be settled amicably, the General Court — or, on appeal, the Court of Justice of the European Union — has sole jurisdiction. Such actions must be brought under Article 272 of the Treaty on the Functioning of the EU (TFEU).

***[OPTION for non-EU beneficiaries (except if the beneficiary is established in an associated country with an association agreement to Horizon 2020 that stipulates sole jurisdiction of the European Court of Justice): As an exception, if such a dispute is between the [Commission][Agency] and the beneficiary, the competent Belgian courts have sole jurisdiction.]***

If a dispute concerns offsetting or an enforceable decision under Article 299 TFEU (see Articles 44, 45 and 46), the beneficiary must bring action before the General Court — or, on appeal, the Court of Justice of the European Union — under Article 263 TFEU.

***[OPTION if the beneficiary is an international organisation:***

*Disputes between the beneficiary and the [Commission][Agency] relating to the Agreement must — if they cannot be settled amicably — will be referred to arbitration.*

*Each party must formally notify to the other party its intention of resorting to arbitration and the identity of the arbitrator.*

*The Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of entry into force of the Agreement will apply.*

*The appointing authority will be the Secretary-General of the Permanent Court of Arbitration following a written request submitted by either party.*

*The arbitration proceedings must take place in Brussels and the language used in the arbitral proceedings will be English.*

*The arbitral award will be binding on all parties and will not be subject to appeal.]*

## **ARTICLE 58 — ENTRY INTO FORCE OF THE AGREEMENT**

The Agreement will enter into force on the day of signature by the [Commission][Agency] or the beneficiary, depending on which is later.

Grant Agreement number: [insert number] [insert acronym] [insert call identifier of the master call]

H2020 SME Instrument Phase 1 Grant Agreement (Mono-beneficiary): December 2013

## SIGNATURES

For the beneficiary

[function/forename/surname]

[electronic signature]

Done in [English] on [electronic time stamp]

For the [Commission][Agency]

[forename/surname]

[electronic signature]

Done in [English] on [electronic time stamp]

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## MODEL ANNEX 2 FOR SME INSTRUMENT PHASE 1

### ESTIMATED BUDGET FOR THE ACTION

ANNEX 2

Estimated eligible* costs (per budget category)		EU contribution			
A. Costs of the feasibility study/Direct and indirect costs of the action	Total costs	Reimbursement rate %	Maximum EU contribution **	Maximum grant amount	
Form of costs***	Lump sum				
Beneficiary	50 000	71 429	70%	50 000	50 000

\* See Article 6 for conditions for costs to be eligible

\*\* This is the theoretical amount of EU contribution if the reimbursement rate is applied to *all* the budgeted costs. The theoretical EU contribution for the action is capped by the maximum grant amount.

\*\*\* See Article 5 for forms of costs

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**MODEL ANNEX 4 FOR SME INSTRUMENT PHASE 1**

**FINANCIAL STATEMENT FOR BENEFICIARY [name]**

**ANNEX 4**

	Eligible* costs (per budget category)		EU contribution		
	A. Costs of the feasibility study/Direct and indirect costs of the action	Total costs	Reimbursement rate %	Maximum EU contribution **	Maximum grant amount
<b>Form of costs***</b>	<b>Lump sum</b>				
<b>Beneficiary</b>	50 000	71 429	70%	50 000	50 000

**The beneficiary/beneficiaries hereby confirm(s) that:**

The information provided is complete, reliable and true.

The costs declared are eligible (i.e. that the action has been properly implemented; see Article 6).

The costs (i.e. the proper implementation of the action) can be substantiated by adequate records and supporting documentation that will be produced upon request or in the context of checks, reviews, audits and investigations (see Articles 17, 18 and 22).

\* See Article 6 for conditions for costs to be eligible

\*\* This is the theoretical amount of EU contribution if the reimbursement rate is applied to *all* the budgeted costs. The theoretical EU contribution for the action is capped by the maximum grant amount.

\*\*\* See Article 5 for forms of costs