



**Education, Audiovisual and Culture Executive Agency**

**Erasmus Mundus and External Cooperation**

## **FRAMEWORK AGREEMENT**

**Erasmus Mundus Joint Doctorate Programme**

AGREEMENT NUMBER - [...]

The Education, Audiovisual and Culture Executive Agency ("the Agency"), acting under powers delegated by the Commission of the European Communities (the "Commission"), and represented by Mr Joachim FRONIA, Head of Unit, of the Executive Agency,

of the one part,

and

[full official name]

[official address in full]

[VAT number],

("the partner"), represented for the purposes of signature of this Agreement by [*name, forename and function*]

of the other part,

HAVE AGREED

on the **Preamble**, the **Special Conditions**, the **General Conditions** and the **Annexes** that go to make up the present Framework Agreement ("the Framework Partnership Agreement")

The **Preamble** sets out the context of the partnership established between the parties in order to implement the relevant actions under the Erasmus Mundus Programme.

The **Special Conditions** and the **General Conditions** indicate the subject and duration of the Framework Partnership Agreement and the operational arrangements for the partnership.

The following documents are annexed to the Framework Partnership Agreement:

- |                  |  |
|------------------|--|
| <b>Annex I</b>   | Actions planned under the partnership          |
| <b>Annex II</b>  | Model Specific Grant Agreement and its annexes |
| <b>Annex III</b> | Erasmus Mundus Programme Guide                 |

The terms of the Special Conditions, of which the Preamble forms an integral part, shall take precedence over those in the other parts of the Framework Partnership Agreement. The terms of the General Conditions shall take precedence over those in the annexes.

Through his signature, the partner accepts the terms of the Framework Partnership Agreement and their application to any Specific Grant Agreements subsequently concluded between the parties.

## PREAMBLE

The Agency has received delegation of powers from the Commission by Commission Decision C (2007) 1842 with a view to performance of tasks linked to implementation of Community programmes in the fields of education, audiovisual and culture.

The Agency is responsible for implementing the Actions 1, 2, and 3 of Erasmus Mundus programme ("the programme"). The decision establishing the programme was adopted by the European Parliament and Council on 16 December 2008 (Decision No 1298/2008/EC) and covers the period 2009-2013.

For the purposes of implementing this Community programme, the Agency selects one or more beneficiaries engaged in the area of activity concerned ("the partner(s)"), with whom it shares common general objectives and wishes to establish a relationship of lasting cooperation.

The general objectives which it shares with the partner in the abovementioned area of activity and which justify the establishment of a partnership are the following:

- to promote structured cooperation between higher education institutions and an offer of enhanced quality in higher education with a distinct European added value, attractive both within the European Union and beyond its borders, with a view to creating centres of excellence;
- to contribute to the mutual enrichment of societies by developing the qualifications of women/men so that they possess appropriate skills, particularly as regards the labour market, and are open-minded and internationally experienced through promoting mobility for the most talented students and academics from third countries to obtain qualifications and/or experience in the European Union and for the most talented European students and academics towards third countries;
- to contribute towards the development of human resources and the international cooperation capacity of higher education institutions in Third Countries through increased mobility streams between the European Union and Third Countries;
- to improve accessibility and enhance the profile and visibility of European higher education in the world as well as its attractiveness for third-country nationals and citizens of the Union

## **I - SPECIAL CONDITIONS**

### **ARTICLE I.1 – PURPOSE**

- I.1.1 The Framework Partnership Agreement is concluded as part of an ongoing, formalised relationship of cooperation between the Agency and the partner ("the partnership") on the basis of Community objectives and an action plan set out in annex I, in order to contribute to the objectives of the Community referred to in the Preamble.
- I.1.2 The purpose of the Framework Partnership Agreement is to define the respective roles and responsibilities of the Agency and the partner in implementing their partnership. The Specific Grant Agreements that may be signed under the Framework Partnership Agreement shall relate to grants for an action.

### **ARTICLE I.2 - AWARD OF GRANTS**

- I.2.1 The Agency may consult its partner in order to obtain a proposal for an action in line with the action plan set out in annex I. Such consultation shall be open to all the partners for whom this type of activity is included in the jointly agreed action plan set out in annex I. The Agency shall to that end stipulate the technical and financial criteria that the actions must satisfy, if they are to qualify for a Community grant. The partner shall be free to submit a proposal for action to the Agency in response to the consultation carried out.
- I.2.2 Where the Agency decides to accept a proposal for an action, it shall send the partner a specific grant agreement (the "Specific Grant Agreement") in accordance with the model in annex II. The Specific Grant Agreement is governed by the terms of the Framework Agreement and must be signed by the authorized representatives of the parties under the same conditions as the Framework Agreement.
- I.2.3 By signing the specific grant agreement, the partner undertakes to carry out the action under his own responsibility on the terms laid down in the specific grant agreement and the annexes thereto and in compliance with the undertakings entered into under the Framework Partnership Agreement
- I.2.4 Signature of the Framework Partnership Agreement by the parties shall not give rise to any obligation on the Agency to award a Community grant. It shall be without prejudice to the partner's participation in other calls for proposals with a view to the award of grants outside the action plan set out in annex I.

### **ARTICLE I.3 - DURATION**

- I.3.1 The Framework Partnership Agreement shall enter into force on the date when the last of the two parties signs.
- I.3.2 It shall be concluded for a period of five years starting from the date of its entry into force provided the relevant actions of the programme are continued after 2013.
- I.3.3 Specific Grant Agreements must be signed before the date when the Framework Partnership Agreement expires. Where the actions are carried out after the above-mentioned date, the terms of the Framework Partnership Agreement shall continue to apply to the implementation of the corresponding Specific Grant Agreements.

## **ARTICLE I.4 - FINANCING THE ACTION**

I.4.1. The estimated annual budget is indicated in annex II of the Specific Grant Agreement.

The grant shall take the form of a flat-rate financing in the form of lump sum(s) as indicated in the Specific Grant Agreement.

The final amount of the grant shall be determined as specified in Article II.17 of the General Conditions, without prejudice to Article II.19 thereof.

I.4.2 The provisions relating to the submission of the reports and other documents relating to the implementation of the action and the arrangements for payment of the grant are set out in the Specific Grant Agreement.

## **ARTICLE I.5 - BANK ACCOUNT**

Payments shall be made to the partner's bank account or sub-account denominated in euros, as indicated below:

Name of bank: [...]  
Address of branch: [...]  
Precise denomination of the account holder: [...]  
Full account number (including bank codes): [...]  
*[IBAN account code: [...]]*

This account or sub-account must identify the payments made by the Agency. If the funds paid to this account or sub-account yield interest or equivalent benefits under the law of the State on whose territory the account or sub-account is opened, such interest or benefits shall, if they are generated by pre-financing payments exceeding 50 000 euros per Specific Grant Agreement, be recovered by the Agency as specified in Article II.16.4.

## **ARTICLE I. 6 -GENERAL ADMINISTRATIVE PROVISIONS**

I.6.1 Any communication addressed to the Agency in connection with the Framework Agreement or a Specific Grant Agreement shall be in writing, indicating the number of the Agreement concerned, and shall be sent to the following address:

**Education, Audiovisual and Culture Executive Agency (EACEA)**  
**Unit P4 - Erasmus Mundus and External Cooperation**  
**Avenue du Bourget n° 1 - BOUR 02/29**  
**1140 Brussels**  
**Belgium**

I.6.2 Ordinary mail shall be considered to have been received by the Agency on the date on which it is formally registered by the Agency unit responsible referred to above. Email shall be considered as received on the date it is received. However, if the Partner receives a reply asking them to redirect the email, it shall not be considered received until the correctly redirected email is received.

I.6.3 Any communication addressed to the partner in connection with the Framework Agreement or a Specific Grant Agreement shall be in writing, indicating the number of the Agreement concerned, and shall be sent to the following address:

Mr/Ms (...)  
[Function]  
[*Official denomination*]  
[Full official address]  
[Email address: *[insert email address]*]

I.6.4 Any change of address by the partner shall be communicated in writing to the Agency.

#### **ARTICLE I.7 - LAW APPLICABLE AND COMPETENT COURT**

The grant is governed by the terms of the Framework Agreement, the Specific Grant Agreements and the Community rules applicable.

The partner may bring legal proceedings regarding decisions by the Agency concerning the application of the provisions of the above-mentioned Agreements and the arrangements for implementing them and the arrangements for implementing it, before the Court of First Instance of the European Communities. Under the terms of Community legislation in this matter, such a proceeding must be lodged within two months of the notification of the decision to the applicant, or, in the absence thereof, of the date on which the decision came to his knowledge.

#### **ARTICLE I.8 – DATA PROTECTION**

All personal data contained in or relating to the Framework Agreement and Specific Grant Agreements shall be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the implementation, the management and the follow-up of the above-mentioned Agreements by the Controller, without prejudice to the possible transmission of the data to the bodies in charge with monitoring or inspection tasks in conformity with Community law [the European Court of Auditors, the European Anti-Fraud Office (OLAF), the Financial Irregularities Panel, auditors, etc].

The partner shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the partner have a query concerning the processing of his personal data, he shall address it in writing to the Controller. The partner shall also have the right of recourse to the European Data Protection Supervisor at any time.

For the purpose of this provision, the «Controller» is the person who has represented the Agency for the purpose of the signature of the above-mentioned Agreements.

#### **ARTICLE I.9 – OTHER SPECIAL CONDITIONS**

The following special conditions apply to this Agreement:

I.9.1. Exchange rate applicable for the conversion of currencies into euros

The partner shall submit the payment requests in accordance with Article 4 of the Specific Grant Agreement or the equivalent Article in the Framework Agreement,

including the underlying financial statements, in euros. By way of derogation from Article II.16.1, any conversion of actual costs into euros shall be made by the partner at the monthly accounting rate established by the Commission and published on the Commission's website and applicable on the month in which the last of the two parties signed the Specific Grant Agreement.

I.9.2 Representatives of the action must participate in meetings organised by the Agency up to two meetings per year. Expenditure related to this participation is considered to be financed out of the lump-sum referred to in Article I.4.1 of the Framework Partnership Agreement.

## **II -GENERAL CONDITIONS**

### **PART A: LEGAL AND ADMINISTRATIVE PROVISIONS**

#### **ARTICLE II.1 – UNDERTAKINGS BY THE PARTNER**

By signing the Framework Agreement, the partner undertakes to:

- respect the common general objectives that formed the basis for establishing the partnership, as mentioned in the Preamble;
- fulfil the undertakings entered into under the action plan set out in annex I, where appropriate together with the annual action jointly agreed between the parties;
- make every effort to achieve in practice the above-mentioned common general objectives in each action for which a Community grant is awarded;
- maintain relations of mutual cooperation and regular exchanges of information with the Agency on matters of common interest to do with use of the Framework Agreement and on the follow-up to implementation of the action plan set out in annex I;
- adopt a transparent attitude with regard to managing and keeping accounts on the action for which a Community grant is awarded and cooperate fully with annual or occasional checks on the implementation of the Framework Agreement and/or the Specific Grant Agreements.

#### **ARTICLE II.2 – LIABILITY**

II.2.1 The partner shall have sole responsibility for complying with any legal obligations incumbent on him.

II.2.2 The Agency shall not, in any circumstances or on any grounds, be held liable in the event of a claim under Specific Grant Agreements relating to any damage caused during the execution of the action. Consequently, the Agency will not entertain any request for indemnity or reimbursement accompanying any such claim.

II.2.3 Except in cases of *force majeure*, the partner shall make good any damage sustained by the Agency as a result of the execution or faulty execution of the action.

II.2.4 The partner shall bear sole liability vis-a-vis third parties, including for damage of any kind sustained by them while the action is being carried out.

#### **ARTICLE II.3 – CONFLICTS OF INTEREST**

II.3.1 The partner undertakes to take all the necessary measures to prevent any risk of conflict of interest which could affect the impartial and objective performance of the Framework Agreement and/or the Specific Grant Agreements. Such conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or emotional reasons, or any other common interests.

II.3.2 Any situation constituting or likely to lead to a conflict of interest during the implementation of the Framework Agreement and/or the Specific Grant Agreements must be brought to the attention of the Agency, in writing, without delay. The partner shall undertake to take whatever steps are necessary to rectify this situation at once.

II.3.3 The Agency reserves the right to check that the measures taken are appropriate and may demand that the partner take additional measures, if necessary, within a certain time.

#### **ARTICLE II.4 - OWNERSHIP/USE OF THE RESULTS**

II.4.1 Unless stipulated otherwise in the Specific Grant Agreement, ownership of the results of the action, including industrial and intellectual property rights, and of the reports and other documents relating to it, shall be vested in the partner.

II.4.2 Without prejudice to paragraph 1, the partner grants the Agency and the Commission the right to make free use of the results of the action as it deems fit, provided it does not thereby breach its confidentiality obligations or existing industrial and intellectual property rights.

#### **ARTICLE II.5 – CONFIDENTIALITY**

The Agency and the partner undertake to preserve the confidentiality of any document, information or other material directly related to the subject of the Framework Agreement or Specific Grant Agreements that is duly classed as confidential, if disclosure could cause prejudice to the other party. The parties shall remain bound by this obligation beyond the expiry date of the Framework Agreement.

#### **ARTICLE II.6 - PUBLICITY**

II.6.1 Unless the Agency requests otherwise, any communication or publication by the partner about the action, including at a conference or seminar, shall indicate that the action has received funding from the European Community.

Any communication or publication by the partner, in any form and medium, shall indicate that sole responsibility lies with the author and that the Agency and the Commission are not responsible for any use that may be made of the information contained therein.

II.6.2 The partner authorizes the Agency and the Commission to publish the following information in any form and medium, including via the Internet:

- the partner's name and address,
- the subject and purpose of the grant,
- the amount granted

Upon a reasoned and duly substantiated request by the partner, the Agency and/or the Commission may agree to forgo such publicity, if disclosure of the information indicated above would risk compromising the partner's security or prejudicing his commercial interests.

## **ARTICLE II.7 - EVALUATION**

Whenever the Agency and/or the Commission carries out an interim or final evaluation of the actions's impact measured against the objectives of the Community programme concerned, the partner undertakes to make available to the Agency and the Commission and/or persons authorized by them all such documents or information, including information in electronic format, as will allow the evaluation to be successfully completed and to give them the rights of access specified in Article II.19.

## **ARTICLE II.8 - SUSPENSION**

II.8.1 The partner may suspend implementation of an action if exceptional circumstances make this impossible or excessively difficult, notably in the event of *force majeure*. He shall inform the Agency without delay, giving all the necessary reasons and details and the foreseeable date of resumption.

II.8.2 If the Agency does not terminate the specific grant agreement under Article II.12.2, the partner shall resume implementation once circumstances allow and shall inform the Agency accordingly. The duration of the action shall be extended by a period equivalent to the length of the suspension.

II.8.3 In accordance with Article II.14, a supplementary written agreement to the specific grant agreement shall be concluded to extend the duration of the action and to make any amendments that may be necessary to adapt the action to the new implementing conditions.

## **ARTICLE II.9 – FORCE MAJEURE**

II.9.1 *Force majeure* shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the agreement, was not attributable to error or negligence on their part, and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available (unless due to *force majeure*), labour disputes, strikes or financial difficulties cannot be invoked as *force majeure* by the defaulting party.

II.9.2 A party faced with *force majeure* shall inform the other party without delay by registered letter with acknowledgement of receipt or equivalent, stating the nature, probable duration and foreseeable effects.

II.9.3 Neither of the parties shall be held in breach of their obligations under the agreement if they are prevented from fulfilling them by *force majeure*. The parties shall make every effort to minimise any damage due to *force majeure*.

II.9.4 Actions under way may be suspended in accordance with Article II.8

## **ARTICLE II.10 - AWARD OF CONTRACTS**

II.10.1 If the partner has to conclude contracts in order to carry out the action and those contracts constitute costs of the action giving rise to a Community grant, he shall award the contract to the bid offering best value for money; in doing so he shall take care to avoid any conflict of interests.

II.10.2 Recourse to the award of contracts referred to in paragraph 1 must be justified having regard to the nature of the action and what is necessary for its implementation.

The partner shall retain sole responsibility for carrying out the action and for compliance with the provisions of the Framework Agreement and the corresponding Specific Grant Agreement. He must undertake to make the necessary arrangements to ensure that the contractor waives all rights in respect of the Agency under the Framework Agreement and/or Specific Grant Agreement;

The partner must undertake to ensure that the provisions applicable to him under Articles II.2, II.3, II.4, II.5, II.6, II.7 and II.19 of the Framework Agreement are also applicable to the contractor.

## **ARTICLE II.11 - ASSIGNMENT**

II.11.1 Claims against the Agency may not be transferred.

II.11.2 In exceptional circumstances, where the situation warrants it, the Agency may authorize the assignment of the Specific Grant Agreements, or part thereof, and payments flowing from them to a third party, following a written request to that effect, giving reasons, from the partner. If the Agency agrees, it must make its agreement known in writing before the proposed assignment takes place. In the absence of the above authorization, or in the event of failure to observe the terms thereof, the assignment shall not be enforceable against and shall have no effect on the Agency.

II.11.3 In no circumstances shall such an assignment release the partner from his obligations to the Agency.

## **ARTICLE II.12 – TERMINATION**

### **II.12.1 Termination by the partner**

The partner may terminate the framework agreement at any time by giving 60 days' written notice. Where he avails himself of that right, he must undertake to complete the implementation of any specific agreements which have entered into force before the date when termination of the framework agreement takes effect.

In duly justified cases, the partner may withdraw his request for a grant and terminate a Specific Grant Agreement which is in the process of being implemented by giving 60 days' written notice stating the reasons, without being required to furnish any indemnity on this account. If no reasons are given or if the Agency does not accept the reasons, the partner shall be deemed to have terminated the agreement improperly, with the consequences set out in the fourth subparagraph of paragraph 4.

### **II.12.2 Termination by the Agency**

The Agency may decide to terminate the framework agreement at any time, without any indemnity on its part, by giving 60 days' written notice. Where the Agency avails itself of that right, it must honour the obligations arising from the implementation of any specific agreements which have entered into force before the date when termination of the framework agreement takes effect, insofar as this implementation gives rise to expenditure foreseen in those specific agreements which is reasonable, except in the cases set out below.

The Agency may decide to terminate the Framework Agreement and the Specific Grant Agreements in the process of being implemented, without any indemnity on its part, in the following circumstances:

- (a) in the event of a change to the partner's legal, financial, technical, organisational or ownership situation that is liable to affect the agreement substantially or to call into question the decision to award the grant;
- (b) if the partner fails to fulfil a substantial obligation incumbent on him under the terms of the Framework Agreement or Specific Grant Agreements, including their annexes;
- (c) in the event of *force majeure*, notified in accordance with Article II.9, or if the action has been suspended as a result of exceptional circumstances, notified in accordance with Article II.8.
- (d) if the partner is declared bankrupt, is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of any other similar proceedings concerning those matters, or is in an analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (e) where the Agency has evidence or seriously suspects the partner or any related entity or person, of professional misconduct;
- (f) if the partner has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;
- (g) where the Agency has evidence or seriously suspects the partner or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (h) where the Agency has evidence or seriously suspects the partner or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the grant;
- (i) if the partner has made false declarations or submits reports inconsistent with reality to obtain the grant provided for in the Agreement.

In the cases referred to in points (e), (g) and (h) above, any related person shall mean any physical person with powers of representation, decision-making or control in relation to the partner. Any related entity shall mean in particular any entity which meets the criteria laid down by Article 1 of the Seventh Council Directive n° 83/349/EEC of 13 June 1983.

### **II.12.3 Termination procedure**

The termination procedure is initiated by registered letter with acknowledgement of receipt or equivalent.

In the cases referred to in points (a), (b), (d), (e), (g) and (h) above, the partner shall have 30 days to submit his observations and take any measures necessary to ensure continued fulfilment of his obligations under the Specific Grant Agreement. If the Agency fails to

confirm acceptance of these observations by giving written approval within 30 days of receiving them, the termination procedure shall continue to run.

Where notice is given, termination shall take effect at the end of the period of notice, which shall start to run from the date when the termination decision is received.

If notice is not given in the cases referred to in points (c), (f) and (i) above, of paragraph 2, termination shall take effect from the day following the date when the termination decision is received.

#### **II.12.4 Effects of termination**

In the event of termination of a Specific Grant Agreement, payments by the Agency shall be proportionate to the actual progress made in carrying out the action on the date when termination takes effect, in accordance with Article II.17. The partner shall have 60 days from the date when termination of the Specific Grant Agreement takes effect to produce a request for final payment in accordance with Article II.15.3 If no request for final payment is received within this time limit, the Agency shall not contribute to the financing of the expenditure incurred by the partner up to the date of termination and it shall recover any amount of pre-financing granted.

By way of exception, at the end of the period of notice referred to in paragraph 3, where the Agency is terminating a Specific Grant Agreement on the grounds that the partner has failed to produce the final technical implementation report and financial statement as stipulated in the said Specific Grant Agreement and has still not complied with this obligation within two months following the written reminder sent by the Agency by registered letter with acknowledgement of receipt or equivalent, the Agency shall not pay the balance and shall recover any amount of pre-financing granted.

By way of exception, in the event of improper termination by the partner or termination by the Agency on the grounds set out in points (a), (e), (g) or (h) or (i) above, the Agency may require the partial or total repayment of sums already paid under a Specific Grant Agreement, in proportion to the gravity of the failings in question and after allowing the partner to submit his observations.

### **ARTICLE II.13 - FINANCIAL PENALTIES**

II.13.1 By virtue of the Financial Regulation applicable to the General Budget of the European Communities, any partner declared to be in grave breach of his contractual obligations shall be liable to financial penalties of between 2% and 10% of the value of the grant in question

II.13.2 This rate may be increased to between 4% and 20% in the event of a repeated breach in the five years following the establishment of the first.

II.13.3 Where the partner has made false declarations regarding the lump sum or flat-rate financing, the Agency may impose financial penalties of up to 50% of the total amount of lump sum or flat-rate financing.

II.13.4 The partner shall be notified in writing of any decision by the Agency to apply such financial penalties.

## **ARTICLE II.14 – SUPPLEMENTARY AGREEMENTS**

II.14.1 Any amendment to the Framework Agreement or a Specific Grant Agreement must be the subject of a written supplementary agreement. No oral agreement may bind the parties to this effect.

II.14.2 The supplementary agreement may not have the purpose or the effect of making changes to the Agreement which might call into question the decision awarding the Framework Agreement or a grant or result in unequal treatment of applicants for framework agreements or grants.

II.14.3 If the request for amendment is made by the partner, he must send it to the Agency in good time before it is due to take effect and, as far as Specific Grant Agreements are concerned, two months before the closing date of the action, except in cases duly substantiated by the partner and accepted by the Agency.

## **PART B - FINANCIAL PROVISIONS**

### **ARTICLE II.15 - REQUESTS FOR PAYMENT**

#### **II.15.1 Pre-financing**

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

Where required by Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement, the partner shall provide a financial guarantee from a bank or an approved financial institution established in one of the Member States of the European Union.

The guarantor shall stand as first-call guarantor and shall not require the Agency to have recourse against the principal debtor (the partner).

The financial guarantee shall remain in force until final payments by the Agency match the proportion of the total grant accounted for by pre-financing. The Agency undertakes to release the guarantee within 30 days following that date.

#### **II.15.2 Further pre-financing**

Where pre-financing is divided into several instalments, the partner may request a further pre-financing payment once he has used up the percentage of the previous payment, indicated in Article 4.2 of the Specific Grant Agreement. The request shall be submitted by using the relevant annexes of the Specific Grant Agreement:

On receipt of these documents, the Agency shall have the period specified in the paragraph on the further pre-financing payment in Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement in order to:

- approve the report on implementation of the action;
- ask the partner for supporting documents or any additional information it deems necessary to allow the approval of the reports;
- reject the reports and ask for the submission of (a) new report(s).

Failing a written reply from the Agency within the time limit for scrutiny indicated above, the reports shall be deemed to have been approved. Approval of the reports accompanying the request for payment shall not imply recognition of the regularity or the authenticity, completeness and correctness of the declarations and information it contains.

If additional information or (a) new report(s) is(are) requested, the time limit for scrutiny shall be extended by the time it takes to obtain this information. The partner shall be informed of that request and the extension of the delay for scrutiny by means of a formal document. The partner shall have the period laid down in the abovementioned provisions of Article 4 of the Specific Grant Agreement or the equivalent to submit the information or new documents requested.

Extension of the delay for approval of the report(s) may delay the payment by the equivalent time.

Where a report is rejected as not admissible within 30 days of receipt and a new report requested, the approval procedure described in this Article shall apply.

In the event of renewed rejection, the Agency reserves the right to terminate the Specific Grant Agreement by invoking Article II.12.2 (b).

### **II.15.3 Payment of the balance**

Payment of the balance, which may not be repeated, is made after the end of the action on the basis of the actual implementation of the action. It may take the form of a recovery order where the total amount of earlier payments is greater than the amount of the final grant determined in accordance with Article II.17.

By the appropriate deadline indicated in the Article on Submission of reports and other documents in the Specific Grant Agreement, the partner shall submit a request for payment of the balance accompanied by the following documents:

- a final report on the implementation of the action;
- an explanation of the amount of the grant requested in the form of lump sum(s) or flat-rate financing in the form of scales of unit costs as laid down in Article 3 of the Specific Grant Agreement on the basis of the actual implementation of the action;
- a declaration certifying that the information provided in his request for payment is full, reliable and true. The partner shall also certify that the action has been carried out in accordance with the Agreement and that his request for payment is substantiated by documentation which may be checked;
- where required by the paragraph on payment of the balance of Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement, a certificate on the action's financial statements and underlying accounts, produced by an approved auditor or, in case of public bodies, by a competent and independent public officer. The purpose of the audit is to certify that the conditions for awarding the grant set out in the Agreement have been fulfilled, that the reports and other documents submitted to the Agency by the partner comply with the provisions of the Framework Agreement and the Specific Grant Agreement, and that the request for payment is justified; it shall also certify that the full summary statement of the actual receipts and final expenditure is full, reliable and true, and corresponds to the actual costs incurred and the financing received for the action.

On receipt of these documents, the Agency shall have the period specified in the paragraph on payment of the balance in Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement in order to:

- approve the final report on implementation of the action;
- ask the partner for supporting documents or any additional information it deems necessary to allow the approval of the reports;
- reject the reports and ask for the submission of (a) new report(s).

Failing a written reply from the Agency within the time limit for scrutiny indicated above, the reports shall be deemed to have been approved. Approval of the reports accompanying the request for payment shall not imply recognition of the regularity or the authenticity, completeness and correctness of the declarations and information it contains.

If additional information or (a) new report(s) is(are) requested, the time limit for scrutiny shall be extended by the time it takes to obtain this information. The partner shall be informed of that request and the extension of the delay for scrutiny by means of a formal document. The partner shall have the period laid down in the abovementioned provisions of Article 4 of the

Specific Grant Agreement or the equivalent to submit the information or new documents requested.

Extension of the delay for approval of the report(s) may delay the payment by the equivalent time.

Where a report is rejected as not admissible within 30 days of receipt and a new report requested, the approval procedure described in this Article shall apply.

In the event of renewed rejection, the Agency reserves the right to terminate the Specific Grant Agreement by invoking Article II.12.2 (b).

## **ARTICLE II.16 - GENERAL PROVISIONS ON PAYMENTS**

II.16.1 Payments shall be made by the Agency in euros. Payments by the Agency shall be deemed to be effected on the date when they are debited to the Commission's account.

II.16.2 The Agency may suspend the period for payment laid down in Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement at any time for the purpose of additional checks by notifying the partner that his request for payment cannot be met, either because it does not comply with the provisions of the Agreement, or because appropriate supporting documents have not been produced.

The Agency may suspend its payments at any time if the partner is found or presumed to have infringed the provisions of the Framework Agreement or the Specific Grant Agreement, in particular in the wake of the audits and checks provided for in Article II.19.

The Agency may also suspend its payments:

- if there is a suspicion of irregularity committed by the partner in the implementation of the Framework Agreement or the Specific Grant Agreement;
- if there is a suspected or established irregularity committed by the partner in the implementation of another Grant Agreement or grant decision funded by the General Budget of the European Communities or by any other budget managed by them. In such cases, suspension of the payments will only proceed where the suspected or established irregularity can affect the implementation of the current Framework Agreement or its related Specific Grant Agreements.

The Agency shall inform the partner in writing as soon as possible of any such suspension, setting out the reasons for suspension.

Suspension shall take effect on the date when notice is sent by the Agency. The remaining payment period shall start to run again from the date when a properly constituted request for payment is registered, when the supporting documents requested are received, or at the end of the suspension period as notified by the Agency.

II.16.3 On expiry of the period for payment specified in Article 4 of the Specific Grant Agreement or the equivalent article in the Framework Agreement, and without prejudice to paragraph 2 of this Article, the partner is entitled to interest on the late payment at the rate applied by the European Central Bank for its main refinancing

operations in euros, plus three and a half points; the reference rate to which the increase applies shall be the rate in force on the first day of the month of the final date for payment, as published in the C series of the Official Journal of the European Union. This provision shall not apply to recipients of a grant which are public authorities of the Member States of the European Union.

Interest on late payment shall cover the period from the final date for payment, exclusive, up to the date of payment as defined in paragraph 1, inclusive. The suspension of payment by the Agency may not be considered as late payment.

By way of exception, when the interest calculated in accordance with the provisions of the first and second subparagraphs is lower than or equal to EUR 200, it shall be paid to the partner only upon demand submitted within two months of receiving late payment.

II.16.4 The Agency shall deduct the interest yielded by pre-financing which exceeds EUR 50.000 from the payment of the balance of the amount due to the partner. The interest shall not be treated as a receipt for the action.

Where the pre-financing payments exceed EUR 750 000 per Agreement at the end of each financial year, the interest shall be recovered for each reporting period. Taking account of the risks associated with the management environment and the nature of action financed, the Agency may recover the interest generated by pre-financing lower than EUR 750 000 at least once a year.

Where the interest yielded exceeds the balance of the amount due to the partner, or is generated by pre-financing referred to in the previous subparagraph, the Agency shall recover it in accordance with Article II.18.

Interest yielded by pre-financing paid to Member States is not due to the Agency.

II.16.5 The partner shall have two months from the date of notification by the Agency of the final amount of the grant determining the amount of the payment of the balance or the recovery order pursuant to Article II.17, or failing that of the date on which the payment of the balance was received, to request information in writing on the determination of the final grant, giving reasons for any disagreement. After this time such requests shall no longer be considered. The Agency undertakes to reply in writing within two months following the date on which the request for information is received, giving reasons for its reply. This procedure is without prejudice to the partner's right to appeal against the Agency's decision pursuant to the Article on Law applicable and competent court. Under the terms of Community legislation in this matter, such appeals must be lodged within two months following the notification of the decision to the applicant or, failing that, following the date on which the applicant learned of the decision.

## **ARTICLE II.17 - DETERMINING THE FINAL GRANT**

II.17.1 Without prejudice to information obtained subsequently pursuant to Article II.19, the Agency shall adopt the amount of the final payment to be granted to the partner on the basis of the documents referred to in Article II.15.3 which it has approved.

II.17.2 The amount paid to the partner by the Agency may not in any circumstances exceed the maximum amount of the grant laid down in Article 3 of the Specific Grant Agreement.

Financing in the form of one or several lump sums is limited to the amounts referred to in Article 3 of the Specific Grant Agreement. Flat-rate financing in the form of scales of unit costs is determined by application of the formulas provided for in Article 3 of the Specific Grant Agreement on the basis of the actual implementation of the action and within the ceilings laid down in that Article.

If the specific conditions or grounds for granting these contributions, as set out in the Specific Grant Agreement, are not fulfilled or are only partially fulfilled on completion of the action, the Agency shall withdraw or reduce its contributions in line with the actual extent of fulfilment of the conditions or requirements.

II.17.3 Without prejudice to the right to terminate the Specific Grant Agreement under Article II.12, and without prejudice to the right of the Agency to apply the penalties referred to in Article II.13, if the action is not implemented or is implemented poorly, partially or late, the Agency may reduce the grant initially provided for in line with the actual implementation of the action on the terms laid down in the Specific Grant Agreement.

II.17.4 On the basis of the amount of the final grant determined in this way and of the aggregate amount of the payments already made under the terms of the Agreement, the Agency shall set the amount of the payment of the balance as being the amount still owing to the partner. Where the aggregate amount of the payments already made exceeds the amount of the final grant, the Agency shall issue a recovery order for the surplus.

## **ARTICLE II.18 – RECOVERY**

II.18.1 If any amount is unduly paid to the partner or if recovery is justified under the terms of the Framework Agreement or a Specific Grant Agreement, the partner undertakes to repay the Agency, on the bank account indicated by the latter, the sum in question on whatever terms and by whatever date it may specify.

II.18.2 If the partner fails to pay by the date set by the Agency, the sum due shall bear interest at the rate indicated in Article II.16.3. Interest on late payment shall cover the period between the date set for payment, exclusive, and the date when the Commission receives full payment of the amount owed, inclusive.

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

II.18.3 If payment has not been made by the due date, sums owed to the Agency may be recovered by offsetting them against any sums owed to the partner, after informing him accordingly by registered letter with acknowledgement of receipt or equivalent, or by calling in the financial guarantee provided in accordance with Article II.15.1. In exceptional circumstances, justified by the necessity to safeguard the financial interests of the Communities, the Agency and/or the Commission may recover by offsetting before the due date of the payment. The partner's prior consent shall not be required.

II.18.4 Bank charges occasioned by the recovery of the sums owed to the Agency shall be borne solely by the partner.

II.18.5 The partner understands that, under Article 256 of the Treaty establishing the European Community, the Commission may adopt an enforceable decision formally establishing an amount as receivable from persons other than States. An action may be brought against such decision before the Court of First Instance of the European Communities.

## **ARTICLE II.19 - CHECKS AND AUDITS**

II.19.1 The partner undertakes to provide any detailed information, including information in electronic format, requested by the Agency and/or the Commission or by any other outside body authorised by it/them to check that the action and the provisions of the Framework Agreement and/or Specific Grant Agreements are being properly implemented.

II.19.2 The partner shall keep at the Agency's disposal all original documents, especially accounting and tax records, or, in exceptional and duly justified cases, certified copies of original documents relating to each Specific Grant Agreement for a period of five years from the date of payment of the balance for the corresponding action.

II.19.3 The partner agrees that the Agency and/or the Commission may have an audit of the use made of the grants awarded carried out either directly by its own staff or by any other outside body authorised to do so on its behalf. Such audits may be carried out throughout the period of implementation of the Specific Grant Agreements until their balances are paid and for a period of five years from the date of payment of the balance for the corresponding action. Where appropriate, the audit findings may lead to recovery decisions by the Agency and/or the Commission.

II.19.4 The partner undertakes to allow the Agency and/or the Commission staff and outside personnel authorised by the Agency and/or the Commission the appropriate right of access to sites and premises where the action is carried out and to all the information, including information in electronic format, needed in order to conduct such audits.

II.19.5 By virtue of Council Regulation (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999 of the European Parliament and the Council, the European Anti-Fraud Office (OLAF) may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Community law for the protection of the financial interests of the European Communities against fraud and other irregularities. Where appropriate, the inspection findings may lead to recovery decisions by the Agency and/or the Commission.

II.19.6 The European Court of Auditors shall have the same rights as the Agency and/or the Commission, notably right of access, as regards checks and audits.

### **SIGNATURES**

For the partner,

[name/forename/*function*]

[signature]

Done at [place], [date]

In duplicate in English

For the Agency,

FRONIA, Joachim  
Head of Unit

[signature]

Done at Brussels, [date]

FRAMEWORK PARTNERSHIP AGREEMENT NUMBER - «NO\_REF»

**Annex I**

Actions planned under the partnership



FRAMEWORK PARTNERSHIP AGREEMENT NUMBER - «NO\_REF»

**Annex II**

Model specific grant agreement and its annexes

**Annex III**

Erasmus Mundus Programme Guide

The ERASMUS MUNDUS PROGRAMME GUIDE 2009-2013 can be downloaded from the following link:

[http://eacea.ec.europa.eu/erasmus\\_mundus/programme/programme\\_guide\\_en.php](http://eacea.ec.europa.eu/erasmus_mundus/programme/programme_guide_en.php)