



Education, Audiovisual and Culture Executive Agency

Erasmus Mundus and External Cooperation

**GRANT AGREEMENT FOR AN ACTION
FOR
ERASMUS MUNDUS PARTNERSHIPS (ACTION 2)**

**financing exclusively by lump sum(s) and/or flat-rates
financing in the form of scales of unit costs**

AGREEMENT NUMBER «NO_REF» - EMA2

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

of the one part,

and

«DEMA_NOM_CONT»

with its registered office at:

«ADRE_RUE», «ADRE_NUM»

«ADRE_BUILD» «ADRE_BOX»

«DEMA_ST_NAME» - «ADRE_COD_POS» «DEMA_ST_CITY»

("the beneficiary"), represented for the purposes of signature of this agreement by «RESI_NOM»

of the other part,

whereas the Decision N° 1298/2008/EC of the European Parliament and the Council of 16 December 2008 establishing the Erasmus Mundus 2009-2013 action programme, authorises the use of lump sums with a unit value of 25.000 € or less to cover one or more different categories of eligible costs,

HAVE AGREED

the **Special Conditions, General Conditions** and **Annexes** below:

Annex I: Description of the Action

Annex II: Estimated overall budget of the Action and guidelines on "Financial conditions for implementation of the mobility"

Annexes III: (a) Declaration on minimum requirements for the selection procedures

(b) First progress report form (technical)

(c) Second/third progress report form (technical and financial parts including further pre-financing request form)

Annex IV: Final technical and financial implementation report form

Annex V: Administrative and Financial Handbook

Annex VI: Minimum insurance requirements

which form an integral part of this agreement ("the agreement").

The terms set out in the Special Conditions shall take precedence over those in the other parts of the agreement.

The terms of the General Conditions shall take precedence over those in the Annexes.

I - SPECIAL CONDITIONS

ARTICLE I.1 – PURPOSE OF THE GRANT

- I.1.1** A European Union grant is awarded, under the terms and conditions set out in the Special Conditions, the General Conditions and the Annexes to the agreement, which the beneficiary hereby declares that he has taken note of and accepts, for the action entitled: «**PROJ_TIT**» «**PROJ_TIT2**» ("the action").
- I.1.2** The beneficiary accepts the grant and undertakes to do everything in his power to carry out the action as described in Annex I acting on his own responsibility.

ARTICLE I.2 – DURATION

- I.2.1** The agreement shall enter into force on the date when the last of the two parties signs.
- I.2.2** The action shall begin on «**DEDE_DAT_DEB_CON**» (the "starting date of the action") and shall end on «**DEDE_DAT_FIN_CON**» (the "closing date of the action"). The period of implementation of the action shall determine the period of eligibility for the European Union grant.
- I.2.3** The partnership can organize the "students" mobility in several cohorts according to the following timeline.
- **First cohort** – the mobility can start as from **September 2011**. The latest date for starting mobility must be **31 December 2012**. Any long-term mobility (i.e. 36 months) must start in the first cohort, in order to ensure that the end date falls within the eligible period;
 - **Second cohort** – the mobility can start as from **September 2012**. The latest date for starting mobility must be **31 December 2013**;
 - **Third cohort** – the mobility can start as from **September 2013**. The latest date for starting mobility must be **31 December 2014**.

"Staff" mobility can start in any time within the project duration and must end within the project eligibility period.

ARTICLE I.3 - FINANCING THE ACTION

The Agency shall co-finance the action for a maximum of EUR «**DEDE_MNT_PRO**» as shown in the estimated overall budget in Annex II.

This co-financing shall take the form of:

1. a lump sum to co-finance the costs of the organisation of the mobility flows and calculated on the basis of an amount of EUR 10.000 per partner, as indicated in Annex II - Table 1: Table of expenditure - 1. Organisation of the mobility;
2. lump sums in the form of scales of unit costs to co-finance the following categories of implementation costs of individual mobility of students and staff as defined in Annex II - Table 1: Table of expenditure – 2. Implementation of the mobility:
 - travel costs,
 - subsistence allowances,

- insurance costs,
- participation costs for mobile students, where applicable.

The applicable formulas for lump sums financing in the form of scales of unit costs appear in the guidelines "Financial conditions for implementation of the mobility" joined to the Annex II.

The final amount of the grant shall be determined as specified in Article II.16 of the agreement, without prejudice to Article II.18 thereof.

ARTICLE I. 4 -PAYMENT ARRANGEMENTS

I.4.1 First pre-financing

Within 45 days of the date when the last of the two parties signs the agreement, a pre-financing payment shall be made to the beneficiary, representing 50 % of the amount specified in Article I.3.

I.4.2 Further pre-financing payments

Pre-financing may be paid in several instalments. In that case, payment of each further instalment may not be made until at least 70% of the previous pre-financing payment has been used up and on condition that a technical and financial progress report (see Annexes III), together with a complete mobility list (Erasmus Mundus Mobility Database output), is submitted and accepted by the Agency with or before the according further pre-financing request.

Every request for payment of a further pre-financing instalment must be accompanied by the documents specified in Article II.14.2, using the **further pre-financing request form** in the Annexes III.

The Agency shall have 90 days to either approve the documents accompanying the request for payment and to pay the further pre-financing or to request additional supporting documents or information. In that case, the partner shall have 15 days to submit the additional information requested or a new report.

The Agency may suspend the period for payment in accordance with the procedure defined in Article II.15.2.

I.4.3 Financial closure

The beneficiary shall submit a final technical implementation report and a final financial statement justifying the final determination of the lump-sums contributions.

The Agency shall have 90 days to approve or reject these documents and to establish the financial closure in accordance with Article II.16, or to request additional supporting documents or information under the procedure laid down in Article II.14.3. In that case the beneficiary shall have 15 days in which to submit additional information requested or 30 days to submit a new report.

A possible recovery representing the balance of the grant determined in accordance with Article II.16 shall be made by the Agency following approval of the final technical and financial implementation report in accordance with Article II.17.

The Agency may suspend the above-mentioned 90 days period in accordance with the procedure defined in Article II.15.2.

ARTICLE I.5 - SUBMISSION OF REPORTS AND OTHER DOCUMENTS

The technical implementation reports, the financial statements and other documents referred to in Article I.4 must be submitted to the Agency in one original, one copy, as well as an electronic version, in one of the official languages of the European Union by using the forms in the Annexes III and IV by the following dates:

- in the frame of the first cohort;

1) a list per type of mobility must be submitted 15 days before the start of the first mobility of each type and a complete list for all mobilities by **1st September 2012 at the latest** (Erasmus Mundus Mobility Database outputs);

2) a certified declaration on minimum requirements for the selection procedures to be submitted with the first list of mobility;

2) a **first technical progress report**: by **1st September 2012**;

3) a **second technical and financial progress report** together with a complete mobility list (Erasmus Mundus Mobility Database output): by **1st February 2013**;

- in the frame of the second cohort (if applicable):

4) a list per type of mobility must be submitted 15 days before the start of the first mobility of each type and a complete list for all mobilities by **1st September 2013 at the latest** (Erasmus Mundus Mobility Databas outputs);

5) a **third technical and financial progress report** together with a complete mobility list including first and second cohorts (Erasmus Mundus Mobility Database output): by **1st February 2014**;

- in the frame of the third cohort (if applicable):

6) a list per type of mobility must be submitted 15 days before the start of the first mobility of each type and a complete list for all mobilities for first, second and third cohorts by **1st September 2014 at the latest** (Erasmus Mundus Mobility Databas outputs);

and

7) a **final report** within **two months after the end of the eligible period**, according to the ending date stated in Article I.2.2.

A progress report is required to be submitted by the date indicated above even if no further pre-financing payment is necessary.

ARTICLE I.6 - BANK ACCOUNT

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

Name of bank: «**DEST_BAN_NOM**»

Address of bank: «**DEST_BAN_RUE**», «**DEST_BAN_NUM_BAT**»

«**DEMA_ST_NAME**» - «**DEST_BAN_COD_POS**» «**DEST_BAN_VIL**»

Account holder: «**DEST_NOM**»

Full account number including bank codes: «**DEST_NUM_COM**»

IBAN account code: «**DEST_IBAN_CD**»

This account or sub-account must identify the payments made by the Agency. If the total pre-financing payments exceed 50 000 euros and 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 be recovered by the Agency as specified in Article II.15.4.

ARTICLE I.7 -GENERAL ADMINISTRATIVE PROVISIONS

I.7.1 Any communication addressed to the Agency in connection with this agreement shall be in writing, indicating the number of the agreement, 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)
BE - 1140 Brussels**

1.7.2 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 received on the date it is received. However, if the beneficiary receives a reply asking them to redirect the email, it shall not be considered received until the correctly redirected email is received.

I.7.3 Any communication addressed to the beneficiary in connection with this agreement shall be in writing, indicating the number of the agreement, and shall be sent to the following address:

**«DEMA_NOM_CONT» , coordinator of the action
«ADRE_RUE», «ADRE_NUM»
«ADRE_BUILD» «ADRE_BOX»
«DEMA_ST_NAME» - «ADRE_COD_POS» «DEMA_ST_CITY»**

I.7.4 Any change of address by the beneficiary shall be communicated in writing to the Agency.

ARTICLE I.8 - LAW APPLICABLE AND COMPETENT COURT

The grant is governed by the terms of the agreement and the Union law applicable. The beneficiary may bring legal proceedings regarding decisions by the Agency concerning the application of the provisions of the agreement and the arrangements for implementing it, before the General Court of the European Union. Under the terms of European Union 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.9 – DATA PROTECTION

All personal data contained in or relating to this agreement 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 European Union 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 this agreement 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 Union law [the Court of Auditors, the European Anti-Fraud Office (OLAF), the Financial Irregularities Panel, auditors, etc].

The beneficiary 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 beneficiary have a query concerning the processing of his personal data, he shall address it in writing to the Controller. The beneficiary 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 this agreement.

ARTICLE I.10 – OTHER SPECIAL CONDITIONS

The following special conditions apply to this agreement:

I.10.1 Geographical lots specificities

In accordance to the "Erasmus Mundus Action 2 – Partnerships" Guidelines to the Call for proposals EACEA/41/10 for the implementation of Erasmus Mundus II programme (OJEU 2009/C294/08 of the 03/12/2009) all specificities indicated for each geographical lot must be strictly respected.

I.10.2 Minimum insurance requirements

The beneficiary with its partners shall provide an insurance scheme that guarantees adequate coverage in accordance to Annex VI of this agreement.

I.10.3 Participation in the Erasmus Mundus Annual Conference

The beneficiary and other representative(s) of the partnership shall attend the Erasmus Mundus II - Partnerships' annual conference. The incurred expenditure for this participation may be covered by the allocated budget for the organisation of the mobility.

I.10.4. Publicity obligations

- a) For purpose of the application of Article II.5 relating to the publicity, the beneficiary shall use the logo and follow the instructions available on the following Internet website: http://eacea.ec.europa.eu/erasmus_mundus/index_en.php (instructions)
http://eacea.ec.europa.eu/about/eacea_logos_en.php (logos)

The translation of the required phrase can be found at the following Internet website address: http://ec.europa.eu/dgs/education_culture/publ/graphics/beneficiaries_all.pdf

- b) Obligations of the beneficiary

Information requirements : The beneficiary shall inform the public, press and media of the action (internet included); which must, in conformity with Article II.5, visibly indicate “with the support of the Erasmus Mundus programme of the European Union” as well as the graphic logo mentioned above.

Beyond this it is also possible – though not obligatory - for beneficiaries to use the graphic identity of the Erasmus Mundus programme – guidelines on its use can be found here: http://ec.europa.eu/education/Erasmus_mundus_toolbox.htm

Where the action, or part of the action, is a publication the mention and graphic logos shall appear on the cover or the first pages following the editor's mention.

Use of signs and posters: If the action includes events for the public, signs and posters related to this action shall be displayed. This shall include the logos mentioned under point a).

Authorisation to use the logos described in point a) implies no right of exclusive use and is limited to this agreement.

If the action is co-financed, the importance given to the above-mentioned publicity must be in proportion with the level of European Union financing.

- c) The Agency shall consider this publicity obligation, foreseen in Articles I.10.4 (a) above and II.5 as a substantial obligation within the meaning of Article II.9.2 of the agreement.

II -GENERAL CONDITIONS

PART A: LEGAL AND ADMINISTRATIVE PROVISIONS

ARTICLE II.1 - LIABILITY

- II.1.1 The beneficiary shall have sole responsibility for complying with any legal obligations incumbent on him.
- II.1.2 The Agency shall not, in any circumstances or on any grounds, be held liable in the event of a claim under the agreement relating to any damage caused during the action's execution. Consequently, the Agency shall not entertain any request for indemnity or reimbursement accompanying any such claim.
- II.1.3 Except in cases of *force majeure*, the beneficiary shall make good any damage sustained by the Agency as a result of the execution or faulty execution of the action.
- II.1.4 The beneficiary shall bear sole liability vis-à-vis third parties, including for damage of any kind sustained by them while the action is being carried out.

ARTICLE II.2 - CONFLICT OF INTERESTS

- II.2.1 The beneficiary undertakes to take all the necessary measures to prevent any risk of conflicts of interests which could affect the impartial and objective performance of the agreement. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional reasons, or any other shared interest.
- II.2.2 Any situation constituting or likely to lead to a conflict of interests during the performance of the agreement must be brought to the attention of the Agency, in writing, without delay. The beneficiary shall undertake to take whatever steps are necessary to rectify this situation at once.
- II.2.3 The Agency reserves the right to check that the measures taken are appropriate and may demand that the beneficiary take additional measures, if necessary, within a certain time.

ARTICLE II.3 - OWNERSHIP/USE OF THE RESULTS

- II.3.1 Unless stipulated otherwise in the agreement, ownership of the results of the action, including industrial and intellectual property rights, and of the reports and other documents relating to it, shall be vested in the beneficiary.
- II.3.2 Without prejudice to paragraph 1, the beneficiary 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.4 - CONFIDENTIALITY

The Agency and the beneficiary undertake to preserve the confidentiality of any document, information or other material directly related to the subject of the agreement 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 closing date of the action.

ARTICLE II.5 - PUBLICITY

II.5.1 Unless the Agency requests otherwise, any communication or publication by the beneficiary about the action, including at a conference or seminar, shall indicate that the action has received funding from the European Union.

Any communication or publication by the beneficiary, 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.5.2 The beneficiary authorises the Agency and the Commission to publish the following information in any form and medium, including via the Internet:

- the beneficiary's name and address,
- the subject and purpose of the grant,
- the amount awarded.

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

ARTICLE II.6 - EVALUATION

Whenever the Agency and/or the Commission carries out an interim or final evaluation of the action's impact measured against the objectives of the Union programme concerned, the beneficiary undertakes to make available to the Agency and the Commission and/or persons authorised 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.18.

ARTICLE II.7 - SUSPENSION

II.7.1 The beneficiary may suspend the implementation of the 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.7.2 If the Agency does not terminate the agreement under Article II.11.2, the beneficiary 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. In accordance with Article II.13 a supplementary written 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.8 – FORCE MAJEURE

II.8.1 *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 this 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.8.2 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.8.3 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.8.4 The action may be suspended in accordance with Article II.7.

ARTICLE II.9 - AWARD OF CONTRACTS

II.9.1 If the beneficiary has to conclude contracts in order to carry out the action and those contracts constitute costs of the action giving rise to a Union grant, he shall award the contract to the bid offering best value for money¹; in doing so he shall take care to avoid any conflict of interests.

II.9.2 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 beneficiary shall retain sole responsibility for carrying out the action and for compliance with the provisions of the agreement. He must undertake to make the necessary arrangements to ensure that the contractor waives all rights in respect of the Agency under the agreement.

The beneficiary must undertake to ensure that the provisions applicable to him under Articles II.1, II.2, II.3, II.4, II.5, II.6, II.10 and II.18 of the agreement are also applicable to the contractor.

ARTICLE II.10 - ASSIGNMENT

II.10.1 Claims against the Agency may not be transferred.

II.10.2 In exceptional circumstances, where the situation warrants it, the Agency may authorize the assignment to a third party of the agreement or part thereof, and payments flowing from it, following a written request to that effect, giving reasons, from the beneficiary. If the Agency agrees, it must make its agreement known in writing before the proposed assignment takes place. In the absence of the above authorisation, 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.10.3 In no circumstances shall such assignment release the beneficiary from his obligations to the Agency.

ARTICLE II.11 – TERMINATION OF THE AGREEMENT

II.11.1 Termination by the beneficiary

In duly justified cases, the beneficiary may withdraw his request for a grant and terminate the agreement at any time by giving 60 days' written notice and stating the reasons of the impossibility to pursue the action for which the grant has been awarded, without being required to provide any indemnity on this account. If no reasons are given or if the Agency does not accept the reasons,

¹ Where the value of the contract exceeds EUR 60 000, departments may include provision in the Special Conditions for specific rules of procedure to apply based on those contained in the Financial Regulation with due regard to the estimated value of the contract, the relative size of the Union contribution and the management risk.

the beneficiary shall be deemed to have terminated this agreement improperly, with the consequences set out in the third subparagraph of paragraph 4.

II.11.2 Termination by the Agency

The Agency may decide to terminate the agreement, without any indemnity on its part, in the following circumstances:

- (a) in the event of a change to the beneficiary'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 beneficiary fails to fulfil a substantial obligation incumbent on him under the terms of the agreement, including its annexes;
- (c) in the event of *force majeure*, notified in accordance with Article II.8, or if the action has been suspended as a result of exceptional circumstances, notified in accordance with Article II.7;
- (d) if the beneficiary 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 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 beneficiary or any related entity or person, of professional misconduct;
- (f) if the beneficiary 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 beneficiary or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interest; .
- (h) where the Agency has evidence or seriously suspects the beneficiary 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 beneficiary 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 beneficiary. 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.11.3 Termination procedure

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

In the cases referred to in points (a), (b), (d) (e), (g) and (h) above, the beneficiary shall have 30 days to submit his observations and take any measures necessary to ensure continued fulfilment of his obligations under the 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 notification of the Agency's decision to terminate the agreement 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 on which notification of the Agency's decision to terminate the agreement is received.

II.11.4 Effects of termination

In the event of termination of the 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.16. The beneficiary shall have 60 days from the date when termination of the agreement takes effect, as notified by the Agency, to produce a request for final payment in accordance with Article II.14.3. If no request for final payment is received within this time limit, the Agency shall not contribute to the financing of expenditure incurred by the beneficiary 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 the agreement on the grounds that the beneficiary has failed to produce the final technical implementation report and financial statement within the deadline stipulated in the agreement and the beneficiary 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 beneficiary or termination by the Agency on the grounds set out in points (a), (e), (g) (h) or (i) above, the Agency may require the partial or total repayment of sums already paid under the agreement, in proportion to the gravity of the failings in question and after allowing the beneficiary to submit his observations.

ARTICLE II.12 - FINANCIAL PENALTIES

- II.12.1 By virtue of the Financial Regulation applicable to the General Budget of the European Union, any beneficiary declared to be in grave breach of his obligations may be subject to financial penalties of between 2% and 10% of the value of the grant in question, with due regard for the principle of proportionality.
- II.12.2 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.12.3 Where the beneficiary has made false declarations regarding the lump sum or flat-rate financing, the Agency may impose financial penalties up to 50% of the total amount of the lump sum or flat-rate financing.
- II.12.4 The beneficiary shall be notified in writing of any decision by the Agency to apply such financial penalties.

ARTICLE II.13 – SUPPLEMENTARY AGREEMENTS

- II.13.1 Any amendment to the grant conditions must be the subject of a written supplementary agreement. No oral agreement may bind the parties to this effect.
- II.13.2 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 grant or result in unequal treatment of applicants.
- II.13.3 If the request for amendment is made by the beneficiary, he must send it to the Agency in good time before it is due to take effect and at all events one month before the closing date of the action, except in cases duly substantiated by the beneficiary and accepted by the Agency.

PART B - FINANCIAL PROVISIONS

ARTICLE II.14 – REQUESTS FOR PAYMENT

Payments shall be made in accordance with Article I.4 of the agreement.

II.14.1 Pre-financing

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

Where required by Article I.4 of the agreement, the beneficiary 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 beneficiary).

The financial guarantee shall remain in force until the balance is paid. The Agency undertakes to release the guarantee within 30 days of that date.

II.14.2 Further pre-financing payments

Where pre-financing is divided into several instalments, the beneficiary may request a further pre-financing payment once he has used up the percentage of the previous payment specified in the provisions of Article I.4 on further pre-financing. The request shall be accompanied by the following documents:

- a detailed statement of the eligible costs actually incurred;
- where required by the above-mentioned provisions of Article I.4, a financial guarantee in accordance with paragraph 1;
- where required by the above-mentioned provisions of Article I.4, an external audit report 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;
- any other documents in support of his request that may be required in support of the request for further pre-financing payments.

The documents accompanying the request for payment shall be drawn up in accordance with the relevant provisions in Article I.5 and the annexes.

II.14.3 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 actual implementation. It may take the form of a recovery order if previous pre-financing payments exceed the amount of the final grant determined in accordance with Article II.16.

By the appropriate deadline indicated in Article I.5 of the agreement, the beneficiary 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 I.3 of the 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. He 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 can be checked.

- where required by Article I.4 of the agreement, a full summary statement of the actual receipts and final expenditure of the action for the period of implementation defined in Article I.2 of the agreement;
- where required by Article I.4 of the agreement, an external audit report 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 beneficiary comply with the provisions of the 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 financing received for the action.

On receipt of these documents, the Agency shall have the period specified in Article I.4 in order to:

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

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

Requests for additional information or a new report shall be notified to the beneficiary in writing.

If additional information or a new report is requested, the time limit for scrutiny shall be extended by the time it takes to obtain this information. The beneficiary shall be informed of that request and of the extension of the delay for scrutiny by means of a formal document. The beneficiary shall have the period laid down in Article I.4 to submit the information or new documents requested.

Extension of the delay for approval of the report 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 agreement by invoking Article II.11.2(b).

ARTICLE II.15 - GENERAL PROVISIONS ON PAYMENTS

II.15.1 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.15.2 The Agency may suspend the period for payment laid down in Article I.4 at any time for the purposes of additional checks by notifying the beneficiary that his request for payment cannot be met, either because it does not comply with the provisions of the agreement, or because the appropriate supporting documents have not been produced.

The Agency may also suspend its payments at any time if the beneficiary is found or presumed to have infringed the provisions of the agreement, in particular in the wake of the audits and checks provided for in Article II.18.

The Agency may also suspend its payments:

- if there is a suspicion of irregularity committed by the beneficiary in the implementation of the grant agreement;
- if there is a suspected or established irregularity committed by the beneficiary in the implementation of another grant agreement or grant decision funded by the General Budget of the European Union 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 grant agreement.

The Agency shall inform the beneficiary 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.15.3 On expiry of the period for payment specified in Article I.4 and without prejudice to paragraph 2, the beneficiary is entitled to interest on the late payment at the rate applied by the European Central Bank for its main refinancing operations in euro, 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 Article II.15.1, 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 beneficiary only upon demand submitted within two months of receiving late payment.

II.15.4 The Agency shall deduct the interest yielded by pre-financing which exceeds EUR 50 000² as provided for in Article I.4 from the payment of the balance of the amount due to the beneficiary. 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 actions 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 beneficiary as indicated in Article II.14.3, or is generated by pre-financing referred to in the previous subparagraph, the Agency shall recover it in accordance with Article II.17.

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

II.15.5 The beneficiary 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.16 or, failing that, of the date on which the payment of the balance was

² For external actions the corresponding ceiling is set at EUR 250 000. For crisis management and humanitarian aid operations the interest shall be recovered if it exceeds per agreement EUR 750 000 at the end of each financial year and is for a duration of more than 12 months.

received, to request information in writing on the determination of the final grant, giving reasons for any disagreement. After this time such requests will 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 beneficiary's right to appeal against the Agency's decision. Under the terms of Union 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.16 - DETERMINING THE FINAL GRANT

II.16.1 Without prejudice to information obtained subsequently pursuant to Article II.18, the Agency shall adopt the amount of the final payment to be granted to the beneficiary on the basis of the documents referred to in Article II.14.3 which it has approved.

II.16.2 The amount paid by the Agency to the beneficiary may not in any circumstances exceed the maximum total amount of the grant laid down in Article I.3.

Financing in the form of one or several lump sums is limited to the amounts referred to in the above-mentioned Article of the agreement. Flat-rate financing in the form of scales of unit costs is determined by application of the formulas provided for in the above-mentioned Article of the 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, (i.e.: lump sums or flat-rate financing in the form of scales of unit costs), as set out in the 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.16.3 Without prejudice to the right for the beneficiary to terminate the agreement under Article II.11 and without prejudice to the right of the Agency to apply the penalties referred to in Article II.12 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 this agreement.

II.16.4 On the basis of the amount of the final payment 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 beneficiary. 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.17 - RECOVERY

II.17.1 If any amount is unduly paid to the beneficiary or if recovery is justified under the terms of the agreement, the beneficiary 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.17.2 If the beneficiary fails to pay by the date set by the Agency, the sum due shall bear interest at the rate indicated in Article II.15.3. 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.17.3 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 beneficiary by the Agency or the Commission, after informing him accordingly, by registered letter with acknowledgment of receipt or equivalent, or by calling in the financial guarantee provided in accordance with Article II.14.1. In exceptional circumstances, justified by the necessity to safeguard the financial interests of the Union, the Agency and/or the Commission may recover by offsetting before the due date of the payment. The beneficiary's prior consent shall not be required.
- II.17.4 Bank charges occasioned by the recovery of the sums owed to the Agency shall be borne solely by the beneficiary.
- II.17.5 The beneficiary understands that, under Article 299 of the Treaty on the functioning of the European Union, 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 General Court of the European Union.

ARTICLE II.18 - CHECKS AND AUDITS

- II.18.1 The beneficiary 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 the Agency and/or by the Commission to check that the action and the provisions of the agreement are being properly implemented.
- II.18.2 The beneficiary shall keep at the Agency's and the Commission's disposal all original documents, especially accounting and tax records or, in exceptional and duly justified cases, certified copies of original documents related to the agreement stored on any appropriate medium that ensures their integrity in accordance with the applicable national legislation, for a period of five years from the date of payment of the balance.
- II.18.3 The beneficiary allows the Agency and/or the Commission to audit the use made of the grant 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 agreement until the balance is paid and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Agency.
- II.18.4 Where the checks on the event generating the lump sum or flat-rate financing reveal that the event has not occurred and an undue payment has been made to the beneficiary, the Agency shall be entitled to recover up to the amount of the lump sum or flat-rate financing. Where the beneficiary has made false declarations, the Agency may impose financial penalties in accordance with Article II.12.
- II.18.5 The beneficiary 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.18.6 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 Union law for the protection of the financial interests of the European Union against fraud and other irregularities. Where appropriate, the inspection findings may lead to recovery decisions by the Agency and/or the Commission.

II.18.7 The 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 beneficiary
«RESI_NOM»,
Function:

For the Agency,
Joachim FRONIA,
Head of Unit

Done in _____ ,
Date:

Done in Brussels,
Date:

In duplicate.

