

Model Framework Partnership Agreement

European Institute of Innovation and Technology (EIT)

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Disclaimer

This document aims to support applicants for the EIT's Call for Knowledge and Innovation Communities (KIC) Proposals under Horizon 2020, the EU Framework Programme for Research and Innovation (2014-2020). It shows the full range of provisions that may be applied to this type of agreement, and is provided for information purposes only. The legally binding agreement will be that which is signed by the parties.

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FRAMEWORK PARTNERSHIP AGREEMENT

NUMBER [insert number] — [insert acronym]

This 'Framework Partnership Agreement' is **between** the following parties:

on the one part,

The **European Institute of Innovation and Technology ('the EIT')** represented for the purposes of signature of this Framework Partnership Agreement by [[function], [forename and surname],

and

on the other part,

1. The Knowledge and Innovation Community Legal Entity ('the KIC LE'):

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

2. and the other Knowledge and Innovation Community ('KIC') Partners listed in Annex 2, if they have signed their 'Accession Form' (see Annex 4 and Article 62),

Unless otherwise specified, references to 'KIC Partner' or 'KIC Partners' include the KIC LE.

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

The Framework Partnership Agreement is composed of:

Terms and Conditions

Annex 1 Strategic Agenda of the KIC

Annex 2 List of KIC Partners

Annex 3 Model Specific Agreement

Annex 1 Description of the specific action

Annex 2 Estimated budget

Annex 3 Model for the financial statements

Annex 4 Model for the certificate on the financial statements

Annex 4 Accession Forms

Annex 5 List of linked third parties

Annex 6 Model for the certificate on the methodology

TERMS AND CONDITIONS

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CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT MATTER OF THE AGREEMENT

This Agreement establishes a long term cooperation ('framework partnership') and sets out its terms and conditions and the general terms and conditions and rights and obligations applicable to the specific grants that may be awarded by the EIT for specific actions under the framework partnership.

CHAPTER 2 FRAMEWORK PARTNERSHIP

ARTICLE 2 — STRATEGIC AGENDA — AWARD OF SPECIFIC GRANTS — SPECIFIC AGREEMENTS — MAXIMUM EIT FINANCIAL CONTRIBUTION

2.1 Strategic Agenda

The strategy, objectives, expected impact and activities under the framework partnership are set out in the '**Strategic Agenda**' in Annex 1.

2.2 Award of specific grants for specific actions — Specific Agreements

The EIT may award '**specific grants**' for '**specific actions**' to be implemented under the framework partnership.

The specific action consists of '**KIC added value activities**' under a Business Plan for a given time period. In accordance with Article 2(11) of the EIT Regulation, '**KIC added-value activities**' means activities carried out by KIC Partners, contributing to the integration of the knowledge triangle of higher education, research and innovation, including the establishment, administrative and coordination activities of the KICs, and contributing to the overall objectives of the EIT.

In order to obtain proposals for specific grants, the EIT will consult the KIC LE on the basis of an invitation to submit a proposal that sets out the award criteria it will apply.

The EIT will decide on the award of the specific grants following an evaluation of the proposal and a competitive review across KICs. The proposal consists of a Business Plan, including short, mid and long-term objectives and targets, key performance indicators, and describing the KIC activities which consist of KIC added value activities to be supported by the specific grant and KIC complementary activities having a clear link with at least one KIC added value activity and not financed from the EIT contribution.

If the EIT decides to award a specific grant, it will propose the KIC LE to conclude a '**Specific Agreement (SGA)**' (see Annex 3).

By the signature of the Specific Agreement by the KIC LE and by the signature of the Accession Form by the KIC Partners, the KIC Partners accept the specific grant and agree to implement the specific action under their own responsibility, without prejudice to and in

accordance with Article 47.1, and in accordance with the Framework Partnership Agreement and this Specific Agreement, with all the obligations and conditions they set out.

Specific Agreements must be concluded before the end of the framework partnership (see Article 3).

After the end of the framework partnership or its termination, the Framework Partnership Agreement continues to apply to specific actions that are implemented under Specific Agreements which have entered into force before end of the duration.

2.3 Maximum EIT financial contribution

The sum of the final amounts of the grants (see Article 10.3) under the specific grant agreements signed under this Framework Partnership Agreement until 31 December 2022 may not exceed 25% of the KIC overall funding.

The KIC overall funding consists of the costs incurred by the KIC Partners, their linked third parties (see Article 19) and/or third parties receiving financial support (see Article 20) in implementing the KIC activities (KIC added value activities and KIC complementary activities) as described in the Business Plans (see Annex 1 SGA).

The costs of KIC complementary activities shall be

- proportionate to the cost of KIC added value activities and/or to the expected impact in furthering the mission of a framework partnership (i.e. the relative weight of KIC complementary activities within KIC activities must be suitable and reasonable to achieve the objectives of the activity);
- incurred after the designation date of the framework partnership;
- identifiable and verifiable.

If the sum of the final amount of the grants exceeds 25% of the KIC overall funding, the EIT will recover the difference at the time of the last payment of the balance of a grant awarded under this Framework Partnership Agreement until 31 December 2022 (see Article 50).

ARTICLE 3 — DURATION AND STARTING DATE OF THE FRAMEWORK PARTNERSHIP

The Framework Partnership Agreement is concluded for a period of 7 years as of its entry into force (see Article 64). This period may be extended.

ARTICLE 4 — RIGHTS AND OBLIGATIONS UNDER THE FRAMEWORK PARTNERSHIP

4.1 General obligation to properly implement the framework partnership

Without prejudice to and in accordance with Article 47.1, the KIC Partners must respect the objectives of the framework partnership and implement it as described in Annex 1 and endeavour to achieve those objectives also in the specific actions.

The KIC Partners must maintain relations of mutual co-operation and regular and transparent exchanges of information with the EIT on:

- the implementation and follow-up of the Strategic Agenda, the Business Plans and the specific grants and
- other matters of common interest related to the Framework Partnership Agreement.

The KIC Partners must implement the framework partnership in compliance with Articles 39, 40, 41, 42, 44, 45, 52 — *mutatis mutandis*.

4.2 KIC Internal Agreement

The KIC Partners must have internal arrangements regarding their operation and co-ordination to ensure that the framework partnership and the specific actions are implemented properly. These internal arrangements must be set out in writing and may cover:

- internal organisation of the KIC, notably governance arrangements reflecting the knowledge triangle of higher education, research and innovation, and openness to new KIC Partners if they add value to the KIC;
- the principles of good governance;
- distribution of EIT funding;
- additional rules on rights and obligations related to background and results (including whether access rights remain or not, if a KIC Partner is in breach of its obligations) (see Subsection 3 of Chapter 3);
- settlement of internal disputes;
- liability, indemnification and confidentiality arrangements between the KIC Partners.

These internal arrangements shall be included in the **'Internal Agreements'** between the KIC LE and other KIC Partners or shall be included in the statutes or by-laws of the KIC LE.

The internal arrangements must not contain any provision contrary to the Framework Partnership Agreement and the Specific Agreements.

4.3 EIT Labelled degrees and diplomas

4.3.1 Degrees and diplomas relating to the KIC education and training activities awarded by Higher Education Institutions participating in the KIC may be labelled as EIT degrees and diplomas, provided they fulfil the following quality criteria:

- a. Robust entrepreneurship education

- b. Highly integrated, innovative "learning by doing" curricula
- c. Mobility, European dimension and openness to the world
- d. Outreach strategy and access policy

4.3.2 The EIT, in close cooperation with the KIC LE, must define the modalities for assessment, labelling and follow up review and governance of EIT labelled degrees and diplomas. EIT labelled degrees and diplomas must build on the experience gained in the context of the European Higher Education Area.

4.3.3 Education and training activities not being awarded with the EIT label must not use the EIT label. Such activities must use the KIC brand adopted by the EIT.

ARTICLE 5 — SUSPENSION OF FRAMEWORK PARTNERSHIP IMPLEMENTATION

The parties may suspend the implementation of the framework partnership on the grounds and according to the procedure — *mutatis mutandis* — set out in Article 55.

If the EIT suspends the framework partnership implementation, the implementation of the specific actions is also deemed suspended (see Article 55), from the date of suspension of the framework partnership.

ARTICLE 6 — TERMINATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE KIC PARTNERS

6.1 Termination of the Agreement

The parties signing the Framework Partnership Agreement may terminate the Framework Partnership Agreement at any time.

The party terminating the Framework Partnership Agreement must formally notify termination to the other party, stating the date the termination will take effect. This date must be after the notification.

Without prejudice to and in accordance with Article 47.1, termination of the Framework Partnership Agreement does not release the parties from their obligations under Specific Agreements which have entered into force before the date on which the termination takes effect, unless they have been terminated.

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

6.2 Termination of the participation of one or more KIC Partners

The parties may terminate participation of one or more KIC Partners in the framework partnership on the grounds and according to the procedures – *mutatis mutandis* – set out in Article 56.2.1, 56.3.1 and 56.3.2.

The KIC LE must submit a request for amendment (see Article 61) to adapt Annex 1 and, if necessary, the addition of one or more new KIC Partners (see Article 62).

If the request for amendment is rejected by the EIT, the Framework Partnership Agreement may be terminated (see above).

Without prejudice to and in accordance with Article 47.1, termination of participation in the framework partnership does not release the KIC Partner concerned from its obligations under Specific Agreements. It cannot however participate in specific actions for which specific grants are awarded after the date on which the termination takes effect.

CHAPTER 3 SPECIFIC GRANTS

SECTION 1 SPECIFIC ACTIONS

ARTICLE 7 — SPECIFIC ACTIONS TO BE IMPLEMENTED – BUSINESS PLANS

The specific actions to be implemented are set out in the Specific Agreements (see Article 2 and Annex 1 SGA).

The Business Plan containing the specific action to be implemented as well as the KIC complementary activities are set out in the Specific Agreement (see Annex 1 SGA).

ARTICLE 8 — DURATION OF THE SPECIFIC ACTIONS

The duration of the specific actions is set out in the Specific Agreements (see Article 3 SGA).

ARTICLE 9 — ESTIMATED BUDGET AND BUDGET TRANSFERS

9.1 Estimated budget

The estimated budget for the specific action is set out in Annex 2 to the Specific Agreement.

It contains the estimated eligible costs, broken down by KIC Partners and linked third party and budget category. It also contains the estimated costs of the KIC Partners not receiving EIT funding, if applicable (see Article 6 SGA).

9.2 Budget transfers

The estimated budget breakdown indicated in Annex 2 to the Specific Agreement may be adjusted by transfers of amounts between KIC Partners or budget categories. This does not

require an amendment according to Article 61, if the specific action is implemented as described in Annex 1 to the Specific Agreement.

However the KIC Partners may not add costs relating to subcontracts not provided for in Annex 1 to the Specific Agreement, unless such additional subcontracts are approved in accordance with Article 18.

Lump sums set out in Annex 1 to the Specific Agreement can never be adjusted.

SECTION 2 SPECIFIC GRANTS

ARTICLE 10 — GRANT AMOUNT, FORM OF GRANT, REIMBURSEMENT RATES AND FORMS OF COSTS

10.1 Maximum grant amount

The maximum grant amount for the specific grants is set out in the Specific Agreements (see Article 4 SGA).

10.2 Form of grant, reimbursement rates and form(s) of costs

The form of the grant, reimbursement rate(s), estimated eligible costs and the form(s) of costs of the specific grants are set out in the Specific Agreements (see Article 4 SGA).

10.3 Final grant amount — Calculation

The final grant amount of a specific grant depends on the actual extent to which the specific action is implemented in accordance with the terms and conditions of the Framework Partnership Agreement and the Specific Agreement concerned.

This amount is calculated by the EIT — when the payment of the balance is made (see Article 17 SGA) — in the following steps:

Step 1 – Application of the reimbursement rates to the eligible costs

Step 2 – Limit to the maximum grant amount

Step 3 – Reduction due to the no-profit rule

Step 4 – Reduction due to improper implementation or breach of other obligations

10.3.1 Step 1 — Application of the reimbursement rates to the eligible costs

The reimbursement rate (see Article 4 SGA) is applied to the eligible costs (actual costs, unit costs, flat-rate costs and lump sum costs; see Article 5 SGA) declared by the KIC Partners and the linked third parties (see Article 16 SGA) and approved by the EIT (see Article 17 SGA).

10.3.2 Step 2 — Limit to the maximum grant amount

If the amount obtained following Step 1 is higher than the maximum grant amount (see Article 4 SGA), it will be limited to the latter.

10.3.3 Step 3 — Reduction due to the no-profit rule

The specific grant must not produce a profit.

'Profit' means the surplus of the amount obtained following Steps 1 and 2 plus the specific action's total receipts, over the specific action's total eligible costs.

The **'specific action's total eligible costs'** are the consolidated total eligible costs approved by the EIT.

The **'specific action's total receipts'** are the consolidated total receipts generated during its duration (see Article 3 SGA).

The following are considered **receipts**:

- a) income generated by the specific action; if the income is generated from selling equipment or other assets purchased for the specific action under the Specific Agreement, the receipt is up to the amount declared as eligible under the Specific Agreement;
- b) financial contributions given by third parties to the KIC Partner or to a linked third party specifically to be used for the specific action, and
- c) in-kind contributions provided by third parties free of charge specifically to be used for the specific action, if they have been declared as eligible costs.

The following are however not considered receipts:

- (a) income generated by exploiting the specific action's results (see Article 34);
- (b) financial contributions by third parties, if they may be used to cover costs other than the eligible costs (see Article 5 SGA);
- (c) financial contributions by third parties with no obligation to repay any amount unused at the end of the period set out in Article 3 of the Specific Agreement.

If there is a profit, it will be deducted from the amount obtained following Steps 1 and 2.

10.3.4 Step 4 — Reduction due to improper implementation or breach of other obligations — Reduced grant amount — Calculation

If the specific grant is reduced (see Article 49), the EIT will calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the specific action or to the seriousness of the breach of obligations in accordance with Article 49.2) from the maximum grant amount (see Article 4 SGA).

The final grant amount will be the lower of the following two:

- the amount obtained following Steps 1 to 3 or
- the reduced grant amount following Step 4.

10.4 Revised final grant amount — Calculation

If — after the payment of the balance (in particular, after checks, reviews, audits or investigations; see Article 28) — the EIT rejects costs (see Article 48) or reduces the specific grant (see Article 49), it will calculate the '**revised final grant amount**' for the KIC Partner concerned by the findings.

This **amount** is calculated by the EIT on the basis of the findings, as follows:

- in case of **rejection of costs**: by applying the reimbursement rate to the revised eligible costs approved by the EIT for the KIC Partner concerned;
- in case of **reduction of the specific grant**: by calculating the concerned KIC Partner's share in the grant amount reduced in proportion to its improper implementation of the specific action or to the seriousness of its breach of obligations (see Article 49.2).

In case of **rejection of costs and reduction of the specific grant**: the revised final grant amount for the KIC Partner concerned will be the lower of the two amounts above.

ARTICLE 11 — ELIGIBLE AND INELIGIBLE COSTS

11.1 Eligible costs

The general and specific conditions for costs to be eligible under the specific grants are set out in the Specific Agreements (see Article 5 SGA).

11.2 Ineligible costs

The conditions under which costs are considered ineligible under the specific grants are set out in the Specific Agreements (see Article 5 SGA).

11.3 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 48).

This may also lead to any of the other measures described in Section 5.

SECTION 3 RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE SPECIFIC GRANTS

SUBSECTION 1 RIGHTS AND OBLIGATIONS RELATED TO IMPLEMENTING THE SPECIFIC ACTIONS

ARTICLE 12 — GENERAL OBLIGATION TO PROPERLY IMPLEMENT THE SPECIFIC ACTIONS

12.1 General obligation to properly implement the specific actions

Without prejudice to and in accordance with Article 47.1, the KIC Partners must implement the specific actions as described in Annex 1 to the Specific Agreements and in compliance with the provisions of the Framework Partnership Agreement and the Specific Agreements and all legal obligations applicable under EU, international and national law.

Annex 1 of the Specific Agreement indicates the KIC Partners participating in the implementation of each KIC added value activity.

12.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grants may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 13 — RESOURCES TO IMPLEMENT THE SPECIFIC ACTIONS – THIRD PARTIES INVOLVED IN THE SPECIFIC ACTIONS

The rules on the resources to implement the specific actions and involvement of third parties in the action are set out in the Specific Agreements (see Article 6 SGA).

ARTICLE 14 — IMPLEMENTATION OF ACTION TASKS BY KIC PARTNERS NOT RECEIVING EIT FUNDING

The Specific Agreements may provide for rules for the implementation of tasks forming part of the specific actions by KIC Partners not receiving EIT funding (see Article 7 SGA).

ARTICLE 15 — PURCHASE OF GOODS, WORKS OR SERVICES

The Specific Agreements may provide for rules for the purchase of goods works and services (see Article 8 SGA).

ARTICLE 16 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES AGAINST PAYMENT

The Specific Agreements may provide for rules for the use of in-kind contributions provided by third parties against payment (see Article 9 SGA).

ARTICLE 17 — USE OF IN-KIND CONTRIBUTIONS PROVIDED BY THIRD PARTIES FREE OF CHARGE

The Specific Agreements may provide for rules for the use of in-kind contributions provided by third parties free of charge (see Article 10 SGA).

ARTICLE 18 — IMPLEMENTATION OF ACTION TASKS BY SUBCONTRACTORS

The Specific Agreements may provide for rules for subcontracting action tasks (see Article 11 SGA).

ARTICLE 19 — IMPLEMENTATION OF ACTION TASKS BY LINKED THIRD PARTIES

The affiliated entities and third parties with a legal link to a KIC Partner ('linked third parties') listed in Annex 5 may implement action tasks attributed to them in Annex 1 to a Specific Agreement.

The rules for calling on linked third parties are set out in the Specific Agreements (see Article 12 SGA).

ARTICLE 20 — FINANCIAL SUPPORT TO THIRD PARTIES

The Specific Agreements may provide for rules for providing financial support to third parties (see Article 13 SGA).

ARTICLE 21 — SUPPORT TO OR IMPLEMENTATION OF TRANS-NATIONAL PROJECTS

Not applicable

ARTICLE 22 — PROVISION OF TRANS-NATIONAL OR VIRTUAL ACCESS TO RESEARCH INFRASTRUCTURES

Not applicable

SUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO THE GRANT ADMINISTRATION**ARTICLE 23 – GENERAL OBLIGATION TO INFORM****23.1 General obligation to provide information upon request**

The KIC Partners must provide — during implementation of the specific actions or afterwards and in accordance with Article 47.1— any information requested in order to verify eligibility of the costs, proper implementation of the specific actions and compliance with any other obligations under the Framework Partnership Agreement and the Specific Agreements.

23.2 Obligation to keep information up to date and to inform about events and circumstances likely to affect the Agreements

Each KIC Partner must immediately inform the KIC LE — which must immediately inform the EIT and the other KIC Partners — of any of the following:

- (a) **events** which are likely to affect significantly or delay the implementation of a specific action or the EIT's financial interests, in particular:
 - (i) changes in its legal, financial, technical, organisational or ownership situation or those of its linked third parties and
 - (ii) changes in the name, address, legal form, organisation type of its linked third parties;
- (b) **circumstances** affecting:
 - (i) the decision to award a specific grant and the Framework Partnership Agreement, or
 - (ii) compliance with requirements under the Framework Partnership Agreement or the Specific Agreements.

23.3 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 24 — KEEPING RECORDS — SUPPORTING DOCUMENTATION

24.1 Obligation to keep records and other supporting documentation

For each specific grant, the KIC Partners must — for a period of five years after the payment of the balance — keep records and other supporting documentation in order to prove the proper implementation of the specific action and the costs they declare as eligible.

They must make them available upon request (see Article 23) or in the context of checks, reviews, audits or investigations (see Article 28).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under a Specific Agreement (including the extension of findings; see Article 28), the KIC Partners must keep the records and other supporting documentation until the end of these procedures.

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

24.1.1 Records and other supporting documentation on the scientific and technical implementation

The KIC Partners must keep records and other supporting documentation on the implementation of the specific action in line with the accepted standards in the respective field.

24.1.2 Records and other documentation to support the eligible costs declared

The KIC Partners must keep the records and documentation supporting the eligible costs declared, in particular the following:

- (a) for **actual costs**: adequate records and other supporting documentation to prove the eligible costs declared, such as contracts, subcontracts, invoices and accounting records. In addition, the KIC LE or KIC Partners' usual cost accounting practices and internal control procedures must enable direct reconciliation between the amounts declared, the amounts recorded in their accounts and the amounts stated in the supporting documentation;
- (b) for **unit costs**: adequate records and other supporting documentation to prove the number of units declared. KIC Partners do not need to identify the actual eligible costs covered or to keep or provide supporting documentation (such as accounting statements) to prove the amount per unit.

In addition, for **direct personnel costs declared as unit costs calculated in accordance with the KIC Partner's usual cost accounting practices**, the KIC Partners must keep adequate records and documentation to prove that the cost accounting practices used comply with the eligibility conditions set out in the Specific Agreements (see Point A of Article 5 SGA).

The KIC Partners and their linked third parties may submit to the EIT, for approval by the Commission, a certificate (drawn up in accordance with Annex 6) stating that their usual cost accounting practices comply with these conditions ('**certificate on the methodology**'). If the certificate is approved, costs declared in line with this methodology will not be challenged subsequently, unless the KIC Partners have concealed information for the purpose of the approval.

- (c) for **flat-rate costs**: adequate records and other supporting documentation to prove the eligibility of the costs to which the flat-rate is applied. The KIC Partners do not need to identify the costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared at a flat-rate.
- (d) for **lump sum costs**: adequate records and other supporting documentation to prove that the corresponding tasks or part of the specific action as described in Annex 1 to the Specific Agreement concerned were implemented properly. The KIC Partners do not need to identify the actual eligible costs covered or provide supporting

documentation (such as accounting statements) to prove the amount declared as a lump sum.

In addition, for **personnel costs** (declared as actual costs or on the basis of unit costs), the KIC Partners must keep **time records** for the number of hours declared. The time records must be in writing and approved by the persons working on the specific action and their supervisors, at least monthly. In the absence of reliable time records of the hours worked on the specific action, the EIT may accept alternative evidence supporting the number of hours declared, if it considers that it offers an adequate level of assurance.

As an exception, for **persons working exclusively on the specific action**, there is no need to keep time records, if the KIC Partner signs a **declaration** confirming that the persons concerned have worked exclusively on the specific action.

For costs declared by linked third parties (see Article 19), it is the KIC Partner that must keep the originals of the financial statements and the certificates on the financial statements of the linked third parties.

24.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, costs of the specific action insufficiently substantiated will be ineligible (see Article 5 SGA) and will be rejected (see Article 48), and the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 25 — SUBMISSION OF DELIVERABLES

The provisions on submission of deliverables for the specific grants are set out in the Specific Agreements (see Article 15 SGA).

ARTICLE 26 — REPORTING — PAYMENT REQUESTS

The provisions on reporting and payment requests for the specific grants are set out in the Specific Agreements (see Article 16 SGA).

ARTICLE 27 — PAYMENTS AND PAYMENT ARRANGEMENTS

The provisions on payments and payment arrangements for the specific grants are set out in the Specific Agreements (see Article 17 SGA).

ARTICLE 28 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

28.1 Checks, reviews and audits by the EIT and the Commission

28.1.1 Right to carry out checks

The EIT will — during the implementation of a specific action or afterwards — check the proper implementation of the specific action and compliance with the obligations under the Framework Partnership Agreement and the Specific Agreement, including assessing deliverables and reports.

For this purpose the EIT may be assisted by external persons or bodies.

The EIT may also request additional information in accordance with Article 23. The EIT may request KIC Partners to provide such information to it directly.

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

28.1.2 Right to carry out reviews

The EIT may — during the implementation of a specific action or afterwards — carry out reviews on the proper implementation of the specific action (including assessment of deliverables and reports), compliance with the obligations under the Framework Partnership Agreement and the Specific Agreement.

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

If the review is carried out on a third party (see Articles 15 to 22), the KIC Partner concerned must inform the third party.

The EIT may carry out reviews directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the KIC LE or the KIC Partner concerned of the identity of the external persons or bodies. They have the right to object to the appointment on grounds of commercial confidentiality.

The KIC LE or KIC Partner concerned must provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources).

The KIC LE or KIC Partner concerned may be requested to participate in meetings, including with external experts.

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

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

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

The EIT will formally notify the review report to the KIC LE or KIC Partner concerned, which has 30 days to formally notify observations ('**contradictory review procedure**').

Reviews (including review reports) are in English.

28.1.3 Right to carry out audits

The EIT or the Commission may — during the implementation of a specific action or afterwards — carry out audits on the proper implementation of the specific action and compliance with the obligations under the Framework Partnership Agreement and the Specific Agreement.

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

If the audit is carried out on a third party (see Articles 15 to 22), the KIC Partner concerned must inform the third party.

The EIT or the Commission may carry out audits directly (using its own staff) or indirectly (using external persons or bodies appointed to do so). It will inform the KIC LE or the KIC Partner concerned of the identity of the external persons or bodies. They have the right to object to the appointment on grounds of commercial confidentiality.

The KIC LE or the KIC Partner concerned must provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Framework Partnership Agreement and Specific Agreements. The EIT or the Commission may request KIC Partners to provide such information to it directly.

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

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

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

The EIT or the Commission will formally notify the draft audit report to the KIC LE or the KIC Partner concerned, which has 30 days to formally notify observations ('**contradictory audit procedure**'). This period may be extended by the EIT or the Commission in justified cases.

The '**final audit report**' will take into account observations by the KIC LE or KIC Partner concerned. The report will be formally notified to it.

Audits (including audit reports) are in English.

The EIT or the Commission may also access the KIC Partners' statutory records for the periodical assessment of unit costs, flat-rate amounts or lump sums.

28.2 Investigations by the European Anti-Fraud Office (OLAF)

Under Regulations No 883/2013¹ and No 2185/96² (and in accordance with their provisions and procedures), the European Anti-Fraud Office (OLAF) may — at any moment during implementation of a specific action or afterwards — carry out investigations, including on-the-spot checks and inspections, to establish whether there has been fraud, corruption or any other illegal activity under the Framework Partnership Agreement or Specific Agreement affecting the financial interests of the EU.

28.3 Checks and audits by the European Court of Auditors (ECA)

Under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 111 of the EIT Financial Regulation³, the European Court of Auditors (ECA) may — at any moment during implementation of a specific action or afterwards — carry out audits.

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

28.4 Checks, reviews, audits and investigations for international organisations

Not applicable

28.5 Consequences of findings in checks, reviews, audits and investigations —Extension of findings

28.5.1 Findings in a specific grant

Findings in checks, reviews, audits or investigations carried out in the context of a specific grant may lead to the rejection of ineligible costs (see Article 48), reduction of the specific grant (see Article 49), recovery of undue amounts (see Article 50) or to any of the other measures described in Section 5.

Rejection of costs or reduction of the specific grant after the payment of the balance will lead to a revised final grant amount (see Article 4 SGA).

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

² Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

³ Decision of the Governing Board of the European Institute of Innovation and Technology (EIT) of 27 December 2013 on adopting the financial regulation for the European Institute of Innovation and Technology

Findings in checks, reviews, audits or investigations may lead to a request for amendment for the modification of Annex 1 to the Specific Agreement (see Article 61).

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

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

28.5.2 Findings in other grants

The EIT or the Commission may extend findings from other grants to a specific grant (**'extension of findings from other grants to a specific grant'**), if:

- (a) the KIC Partner concerned is found, in other EIT, EU or Euratom grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on the specific grant and
- (b) those findings are formally notified to the KIC Partner concerned — together with the list of grants affected by the findings — no later than two years after the payment of the balance of the specific grant.

The extension of findings may lead to the rejection of costs (see Article 48) reduction of the specific grant (see Article 49), recovery of undue amounts (see Article 50), suspension of the action implementation (see Article 55) or termination of the specific grant (see Article 56).

28.5.3 Procedure

The EIT or the Commission will formally notify the KIC Partner concerned the systemic or recurrent errors, and its intention to extend these audit findings together with the list of grants affected.

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

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

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

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

The amounts to be rejected will be determined on the basis of the revised financial statements, subject to their approval.

If the EIT or the Commission does not receive any observations or revised financial statements, does not accept the observations or the proposed alternative correction method or does not approve the revised financial statements, it will formally notify to the KIC Partner concerned the application of the initially notified correction rate for extrapolation.

If the EIT or the Commission accepts the alternative correction method proposed by the KIC Partner concerned, it will formally notify to the KIC Partner concerned the application of the accepted alternative correction method.

28.5.3.2 If the findings concern **improper implementation** or **breach of other obligations**, the formal notification will include:

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

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

If the EIT or the Commission does not receive any observations or does not accept the observations or the proposed alternative flat-rate, it will formally notify to the KIC Partner concerned the application of the initially notified flat-rate.

If the EIT or the Commission accepts the alternative flat-rate proposed by the KIC Partner, it will formally notify the KIC Partner concerned the application of the accepted alternative flat-rate.

28.6 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, any insufficiently substantiated costs of specific actions will be ineligible (see Article 5 SGA) and will be rejected (see Article 48).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 29 — MONITORING AND EXTERNAL EVALUATION OF THE KIC

29.1 Right to monitor and evaluate the KIC

The EIT or the Commission may carry out interim and final evaluations of the output, results and impact of the KIC.

Evaluations may be started during implementation of a specific action and up to a period of five years after the payment of the balance. The evaluation is considered to start on the date of the formal notification to the KIC LE or KIC Partners.

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

The KIC LE and KIC Partners must provide any information requested to evaluate its impact, including information in electronic format.

29.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the EIT may apply the measures described in Section 5.

SUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND AND RESULTS OF THE SPECIFIC ACTIONS

SUBSUBSECTION 1 GENERAL

ARTICLE 29a — MANAGEMENT OF INTELLECTUAL PROPERTY

29a.1 Obligation to take measures to implement the Commission Recommendation on the management of intellectual property in knowledge transfer activities

KIC Partners that are universities or other public research organisations must take measures to implement the principles set out in Points 1 and 2 of the Code of Practice annexed to the Commission Recommendation on the management of intellectual property in knowledge transfer activities.

This does not change the obligations set out in Subsubsections 2 and 3 of this Subsection.

The KIC Partners must ensure that researchers and third parties involved in the specific actions are aware of them.

29a.2 Consequences of non-compliance

If a KIC Partner breaches its obligations under this Article, the EIT may apply any of the measures described in Section 5.

SUBSUBSECTION 2 RIGHTS AND OBLIGATIONS RELATED TO BACKGROUND

ARTICLE 30 — AGREEMENT ON BACKGROUND

30.1 Agreement on background

‘Background’ means any data, know-how or information held by any KIC Partner — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:

- (a) is held by the KIC Partners before they entered into the Specific Agreement concerned or no later than before the commencement of the particular KIC added value activity and
- (b) is needed to implement the KIC added-value activities in which they participate under the specific action or exploit the results thereof.

The KIC Partners must identify and agree (in writing) on the background for the KIC added value activities in which they participate under the specific action (**‘agreement on background’**).

30.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 31 — ACCESS RIGHTS TO BACKGROUND

31.1 Exercise of access rights — Waiving of access rights — No sub-licensing

To exercise access rights, this must first be requested in writing (**‘request for access’**).

‘Access rights’ means rights to use results or background under the terms and conditions laid down in this Agreement.

Waivers of access rights are not valid unless in writing.

Unless agreed otherwise, access rights do not include the right to sub-license.

31.2 Access rights for other KIC Partners, for implementing their own tasks under the specific action

The KIC Partners participating in the same KIC added value activity under the specific action must give each other access — on a royalty-free basis — to background needed to implement their own tasks under the particular KIC added value activity, unless the KIC Partner that holds the background has — no later than before the commencement of the particular KIC added value activity —:

- (a) informed the other KIC Partners participating in the same KIC added value activity that access to its background is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel), or
- (b) agreed with the other KIC Partners participating in the same KIC added value activity that access would not be on a royalty-free basis.

31.3 Access rights for other KIC Partners, for exploiting their own results of the specific action

The KIC Partners participating in the same KIC added value activity must give each other access — under fair and reasonable conditions— to background needed for exploiting their own results of the same KIC added value activity, unless the KIC Partner that holds the background has — no later than before the commencement of the particular KIC added value activity — informed the other KIC Partners participating in the same KIC added value activity that access to its background is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel).

‘Fair and reasonable conditions’ means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

Request for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3 of the Specific Agreement.

31.4 Access rights for other KIC Partners, for other KIC added value activities under the specific action

The Specific Agreement may provide for access rights to background for other KIC Partners for other KIC added value activities under the specific action (under the framework partnership) (see Article 18 SGA).

31.5 Access rights for affiliated entities

Unless otherwise agreed in the Internal Agreement, access to background must also be given — under fair and reasonable conditions (see above Article 31.3) and unless it is subject to legal restrictions or limits, including those imposed by the rights of third parties (including

personnel) — to affiliated entities⁴ established in an EU Member State or ‘associated country’⁵, if this is needed to exploit the results generated by the KIC Partners to which they are affiliated.

Unless agreed otherwise (see above, Article 31.1), the affiliated entity concerned must make the request directly to the KIC Partner that holds the background.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3 of the Specific Agreement.

31.6 Access rights for third parties

The Specific Agreement may provide for access rights for third parties to background (see Article 18 SGA).

31.7 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

SUBSUBSECTION 3 RIGHTS AND OBLIGATIONS RELATED TO RESULTS

ARTICLE 32 — OWNERSHIP OF RESULTS

32.1 Ownership by the KIC Partner that generates the results

Results of the specific action are owned by the KIC Partner that generates them.

‘Results’ means any (tangible or intangible) output of the specific action such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the specific action, as well as any rights attached to it, including intellectual property rights.

32.2 Joint ownership by the several KIC Partners

Two or more KIC Partners own results jointly if:

- (a) they have jointly generated them and
- (b) it is not possible to:
 - (i) establish the respective contribution of each KIC Partner, or

⁴ As defined in the Article 2.1(2) of the Horizon 2020 Rules for Participation, Regulation (EU) No 1290/2013.

⁵ As defined in the Article 2.1(3) of the Horizon 2020 Rules for Participation, Regulation (EU) No 1290/2013.

- (ii) separate them for the purpose of applying for, obtaining or maintaining their protection (see Article 33).

The joint owners must agree (in writing) on the allocation and terms of exercise of their joint ownership (**'joint ownership agreement'**), to ensure compliance with their obligations under the Framework Partnership Agreement and the Specific Agreement.

Unless otherwise agreed in the joint ownership agreement, each joint owner may grant non-exclusive licences to third parties to exploit jointly-owned results (without any right to sub-license), if the other joint owners are given:

- (a) at least 45 days advance notice and
- (b) fair and reasonable compensation.

Once the results have been generated, joint owners may agree (in writing) to apply another regime than joint ownership (such as, for instance, transfer to a single owner (see Article 36) with access rights for the others).

32.3 Rights of third parties (including personnel)

If third parties (including personnel) may claim rights to the results, the KIC Partner concerned must ensure that it complies with its obligations under the Framework Partnership Agreement and the Specific Agreement.

If a third party generates results, the KIC Partner concerned must obtain all necessary rights (transfer, licences or other) from the third party, in order to be able to respect its obligations as if those results were generated by the KIC Partner itself.

If obtaining the rights is impossible, the KIC Partner must refrain from using the third party to generate the results.

32.4 EIT ownership, to protect results

32.4.1 The EIT may — with the consent of the KIC Partner concerned — **assume ownership** of the results of a specific action to protect them, if a KIC Partner intends — up to four years after the period set out in Article 3 of the Specific Agreement — to disseminate its results without protecting them, except in any of the following cases:

- (a) the lack of protection is because protecting the results is not possible, reasonable or justified (given the circumstances);
- (b) the lack of protection is because there is a lack of potential for commercial or industrial exploitation, or

- (c) the KIC Partner intends to transfer the results to another KIC Partner or third party established in an EU Member State or associated country, which will protect them.

Before the results are disseminated and unless any of the cases above under Points (a), (b) or (c) applies, the KIC Partner must formally notify the EIT and at the same time inform it of any reasons by the KIC Partner for refusing consent. The KIC Partner may refuse consent only if it can show that its legitimate interests would suffer significant harm.

If the EIT decides to assume ownership, it will formally notify the KIC Partner within 45 days of receiving notification.

No dissemination relating to these results may take place before the end of this period or, if the EIT takes a positive decision, until it has taken the necessary steps to protect the results.

32.4.2 The EIT may — with the consent of the KIC Partner concerned — assume ownership of the results of a specific action to protect them, if a KIC Partner intends — up to four years after the period set out in Article 3 of the Specific Agreement — to stop protecting them or not to seek an extension of protection, except in any of the following cases:

- (a) the protection is stopped because of a lack of potential for commercial or industrial exploitation;
- (b) an extension would not be justified given the circumstances.

A KIC Partner that intends to stop protecting results or not seek an extension must — unless any of the cases above under Points (a) or (b) applies — formally notify the EIT at least 60 days before the protection lapses or its extension is no longer possible and at the same time inform it of any reasons for refusing consent. The KIC Partner may refuse consent only if it can show that its legitimate interests would suffer significant harm.

If the EIT decides to assume ownership, it will formally notify the KIC Partner concerned within 45 days of receiving notification.

32.5 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to the any of the other measures described in Section 5.

ARTICLE 33 — PROTECTION OF RESULTS — VISIBILITY OF EU FUNDING

33.1 Obligation to protect the results

Each KIC Partner must examine the possibility of protecting its results of the specific action and must adequately protect them — for an appropriate period and with appropriate territorial coverage — if:

- (a) the results can reasonably be expected to be commercially or industrially exploited and
- (b) protecting them is possible, reasonable and justified (given the circumstances).

When deciding on protection, the KIC Partner must consider its own legitimate interests and the legitimate interests (especially commercial) of the other KIC Partners.

33.2 EIT ownership, to protect the results

If a KIC Partner intends not to protect its results, to stop protecting them or not seek an extension of protection, the EIT may — under certain conditions (see Article 32.4) — assume ownership to ensure their (continued) protection.

33.3 Information on EIT and EU funding

Applications for protection of results (including patent applications) filed by or on behalf of a KIC Partner must — unless the EIT requests or agrees otherwise or unless it is impossible — include the following:

“The activity leading to this application has received funding from the European Institute of Innovation and Technology (EIT) under grant agreement No [number]. This European body receives support from the European Union's the Horizon 2020 research and innovation programme”.

33.4 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such a breach may also lead to any of the other measures described in Section 5.

ARTICLE 34 — EXPLOITATION OF RESULTS

34.1 Obligation to exploit the results

Each KIC Partner must — up to four years after the period set out in Article 3 of the Specific Agreement — take measures aiming to ensure ‘exploitation’ of its results of the specific action (either directly or indirectly, in particular through transfer or licensing; see Article 36) by:

- (a) using them in further research activities (outside the specific action);
- (b) developing, creating or marketing a product or process;
- (c) creating and providing a service;

- (d) using them in standardisation activities, or
- (e) using them in further knowledge triangle activities.

The Specific Agreement may provide for additional exploitation obligations (see Article 18 SGA).

This does not change the security obligations in Article 43, which still apply.

34.2 Results that could contribute to European or international standards — Information on EIT and EU Funding

The Specific Agreement may provide for additional exploitation provisions (see Article 18 SGA).

If results are incorporated in a standard, the KIC Partner concerned must — unless the EIT requests or agrees otherwise or unless it is impossible — ask the standardisation body to include the following statement in (information related to) the standard:

“Results incorporated in this standard received funding from the European Institute of Innovation and Technology (EIT) under grant agreement No [Number]. This European body receives support from the European Union's Horizon 2020 research and innovation programme”.

34.3 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced in accordance with Article 49.

Such a breach may also lead to any of the other measures described in Section 5.

ARTICLE 35 — DISSEMINATION OF RESULTS — OPEN ACCESS — VISIBILITY OF EIT AND EU FUNDING

35.1 Obligation to disseminate results

Unless it goes against their legitimate interests, each KIC Partner must — as soon as possible — **‘disseminate’** its results of the specific action by disclosing them to the public by appropriate means (other than those resulting from protecting or exploiting the results), including in scientific publications (in any medium).

The Specific Agreement may provide for additional dissemination obligations (see Article 18 SGA).

This does not change the obligation to protect results in Article 33, the confidentiality obligations in Article 42, the security obligations in Article 43 or the obligations to protect personal data in Article 45, all of which still apply.

A KIC Partner that intends to disseminate its results must give advance notice to the other KIC Partners of — unless agreed otherwise — at least 45 days, together with sufficient information on the results it will disseminate.

Any other KIC Partner may object within — unless agreed otherwise — 30 days of receiving notification, if it can show that its legitimate interests in relation to the results or background would be significantly harmed. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard these legitimate interests.

If a KIC Partner intends not to protect its results, it may — under certain conditions (see Article 32.4.1) — need to formally notify the EIT before dissemination takes place.

35.2 Open access to scientific publications

Each KIC Partner must ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results.

In particular, it must:

- (a) as soon as possible and at the latest on publication, deposit a machine-readable electronic copy of the published version or final peer-reviewed manuscript accepted for publication in a repository for scientific publications;

Moreover, the KIC Partner must aim to deposit at the same time the research data needed to validate the results presented in the deposited scientific publications.

- (b) ensure open access to the deposited publication — via the repository — at the latest:
 - (i) on publication, if an electronic version is available for free via the publisher, or
 - (ii) within six months of publication (twelve months for publications in the social sciences and humanities) in any other case.
- (c) ensure open access — via the repository — to the bibliographic metadata that identify the deposited publication.

The bibliographic metadata must be in a standard format and must include all of the following:

- the terms "EIT", "European Union (EU)" and "Horizon 2020";
- the name of the specific action, acronym and grant number;

- the publication date, and length of embargo period if applicable, and
- a persistent identifier.

35.3 Open access to research data

The Specific Agreement may provide for additional dissemination obligations concerning open access to research data (see Article 18 SGA).

35.4 Information on EIT and EU funding — Obligation and right to use the EIT KIC logo and EU emblem

Unless the EIT requests or agrees otherwise or unless it is impossible, any dissemination of results (in any form, including electronic) must:

- (a) display the EIT KIC logo as adopted by the EIT (hereafter referred to as “EIT KIC logo”);
- (b) display the EU emblem and
- (c) include the following text:

“This activity has received funding from the European Institute of Innovation and Technology (EIT) under grant agreement No [Number]. This European body receives support from the Horizon 2020 research and innovation programme”.

When displayed together with another logo, the EIT KIC logo and EU emblem must have appropriate prominence.

For the purposes of their obligations under this Article, the KIC Partners may use the EIT KIC logo and the EU emblem without first obtaining approval from the EIT or the Commission.

This does not however give them the right to exclusive use.

Moreover, they may not appropriate the EIT KIC logo and the EU emblem (or any similar trademark or logo), either by registration or by any other means.

35.5 Disclaimer excluding EIT responsibility

Any dissemination of results must indicate that it reflects only the author's view and that the EIT is not responsible for any use that may be made of the information it contains.

35.6 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such a breach may also lead to any of the other measures described in Section 5.

ARTICLE 36 — TRANSFER AND LICENSING OF RESULTS

36.1 Transfer of ownership

Each KIC Partner may transfer ownership of its results of the specific action.

It must however ensure that its obligations under Articles 32.2, 32.4, 33, 34, 35, 36 and 37 also apply to the new owner and that this owner has the obligation to pass them on in any subsequent transfer.

This does not change the security obligations in Article 43, which still apply.

Unless agreed otherwise (in writing) for specifically-identified third parties or unless impossible under applicable laws on mergers and acquisitions, a KIC Partner that intends to transfer ownership of results must give at least 45 days advance notice (or less if agreed in writing) to the other KIC Partners that still have (or still may request) access rights to the results. This notification must include sufficient information on the new owner to enable any KIC Partner concerned to assess the effects on its access rights.

Unless agreed otherwise (in writing) for specifically-identified third parties, any other KIC Partner may object within 30 days of receiving notification (or less if agreed in writing), if it can show that the transfer would adversely affect its access rights. In this case, the transfer may not take place until agreement has been reached between the KIC Partners concerned.

36.2 Granting licences

Each KIC Partner may grant licences to its results of the specific action (or otherwise give the right to exploit them), if:

- (a) this does not impede access rights (see Article 37) and
- (b) the KIC Partner complies with its additional exploitation obligations (if any) (see Article 34.1).

In addition to Points (a) and (b), exclusive licences for results may be granted only if all the other KIC Partners concerned have waived their access rights (see Article 37.1).

This does not change the dissemination obligations in Article 35 or security obligations in Article 43, which still apply.

36.3 EIT right to object to transfers or licensing

The Specific Agreement may provide for the right of the EIT to object to a transfer of ownership or the licencing of results (see Article 18 SGA).

36.4 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such a breach may also lead to any of the other measures described in Section 5.

ARTICLE 37 — ACCESS RIGHTS TO RESULTS

37.1 Exercise of access rights — Waiving of access rights — No sub-licensing

The conditions set out in Article 31.1 apply.

The obligations set out in this Article do not change the security obligations in Article 43, which still apply.

37.2 Access rights for the other KIC Partners, for implementing their own tasks under the specific action

The KIC Partners participating in the same KIC added value activity must give each other access — on a royalty-free basis — to results needed for implementing their own tasks in the same KIC added value activity under the specific action.

37.3 Access rights for the other KIC Partners, for exploiting their own results

For each specific action, the KIC Partners participating in the same KIC added value activity must give each other — under fair and reasonable conditions (see Article 31.3) — access to results needed for exploiting their own results from the same KIC added value activity.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3 of the Specific Agreement.

37.4 Access rights for the other KIC Partners, for other KIC added value activities under the specific action

The Specific Agreement may provide for access rights to results for the other KIC Partners for other KIC added value activities under the specific action (under the framework partnership) (see Article 18 SGA).

37.5 Access rights of affiliated entities

Unless agreed otherwise in the Internal Agreement, access to results must also be given — under fair and reasonable conditions (see Article 31.3) — to affiliated entities established in an EU Member State or associated country, if this is needed for those entities to exploit the results generated by the KIC Partners to which they are affiliated.

Unless agreed otherwise (see Article 37.1), the affiliated entity concerned must make any such request directly to the KIC Partner that owns the results.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3 of the Specific Agreement.

37.6 Access rights for the EU institutions and bodies and EU Member States

The Specific Agreement may provide for access rights for EU institutions and bodies and EU Member States to results (see Article 18 SGA).

37.7 Access rights for third parties

The Specific Agreement may provide for access rights for third parties to results (see Article 18 SGA).

37.8 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

SUBSECTION 4 OTHER RIGHTS AND OBLIGATIONS

ARTICLE 38 — RECRUITMENT AND WORKING CONDITIONS FOR RESEARCHERS

38.1 Obligation to take measures to implement the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers

The KIC Partners must take all measures to implement the principles set out in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers⁶, in particular regarding:

- working conditions;
- transparent recruitment processes based on merit, and
- career development.

The KIC Partners must ensure that researchers and third parties involved in the specific action are aware of them.

38.2 Consequences of non-compliance

⁶ Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).

If a KIC Partner breaches its obligations under this Article, the EIT may apply any of the measures described in Section 5.

ARTICLE 39 — GENDER EQUALITY

39.1 Obligation to aim for gender equality

The KIC Partners must take all measures to promote equal opportunities between men and women in the implementation of the specific actions. They must aim, to the extent possible, for a gender balance at all levels of personnel assigned to the specific actions, including at supervisory and managerial level.

39.2 Consequences of non-compliance

If a KIC Partner breaches its obligations under this Article, the EIT may apply any of the measures described in Section 5.

ARTICLE 40 — ETHICS

40.1 Obligation to comply with ethical principles

The KIC Partners must carry out the specific actions in compliance with:

- (a) ethical principles (including the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity⁷ — and including, in particular, avoiding fabrication, falsification, plagiarism or other research misconduct) and
- (b) applicable international, EU and national law.

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

The KIC Partners must ensure that the activities under the specific actions have an exclusive focus on civil applications.

The KIC Partners must ensure that the activities under the specific actions do not:

- (a) aim at human cloning for reproductive purposes;

⁷ The European Code of Conduct for Research Integrity of ALLEA (All European Academies) and ESF (European Science Foundation) of March 2011.
http://www.esf.org/fileadmin/Public_documents/Publications/Code_Conduct_ResearchIntegrity.pdf

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

40.2 Activities raising ethical issues

Activities raising ethical issues must comply with the 'ethics requirements' set out in Annex 1 to the Specific Agreements (if applicable).

Before the beginning of an activity raising an ethical issue, the KIC LE must submit (see Article 58) to the EIT a copy of:

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

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

If these documents are specifically requested for a specific action, they must contain an explicit reference to the action title. The KIC LE must submit a declaration by each KIC Partner concerned that these documents specifically cover the action tasks.

40.3 Activities involving human embryos or human embryonic stem cells

Activities involving research on human embryos or human embryonic stem cells may be carried out, only if:

- they are set out in Annex 1 to the Specific Agreements or
- if the KIC LE has obtained explicit approval (in writing) from the EIT (see Article 58).

40.4 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49) and the Specific Agreement concerned or participation of the KIC Partner may be terminated (see Article 56).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 41 — CONFLICT OF INTERESTS

41.1 Obligation to avoid a conflict of interests

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

They must formally notify to the EIT without delay any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

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

41.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the grant may be reduced (see Article 49) and the Specific Agreement or participation of the KIC Partner may be terminated (see Article 56).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 42 — CONFIDENTIALITY

42.1 General obligation to maintain confidentiality

During implementation of the specific action and for four years after the period set out in Article 3 of the Specific Agreement, the parties must keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed ('**confidential information**').

If a KIC Partner requests, the EIT may agree to keep such information confidential for an additional period beyond the initial four years.

If information has been identified as confidential only orally, it will be considered to be confidential only if this is confirmed in writing within 15 days of the oral disclosure.

Unless otherwise agreed between the parties, they may use confidential information only to implement the Framework Partnership Agreement or Specific Agreement.

The KIC Partners may disclose confidential information to their personnel or third parties involved in the specific action only if they:

- (a) need to know to implement the Framework Partnership Agreement or Specific Agreements and

- (b) are bound by an obligation of confidentiality.

This does not change the security obligations in Article 43, which still apply.

The EIT may disclose confidential information to its staff, other EU institutions and bodies or third parties, if:

- (a) this is necessary to implement the Framework Partnership Agreement or Specific Agreement or safeguard the EIT's financial interests and
- (b) the recipients of the information are bound by an obligation of confidentiality.

The confidentiality obligations no longer apply if:

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

42.2 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 43 — SECURITY-RELATED OBLIGATIONS

43.1 Results with a security recommendation

Before disclosing 'results with a security recommendation' to a third party (including linked third parties, such as affiliated entities), a KIC Partner must inform the KIC LE — which must request written approval from the EIT.

43.2 Classified results

Activities related to 'classified results' (see Annex 1 to the Specific Agreement) must comply with the 'security requirements' (Security Aspect Letter (SAL) and the Security Classification

Guide (SCG) (if applicable), set out in Annex 1 to the Specific Agreement until they are declassified.

Action tasks related to classified results may not be subcontracted without prior explicit written approval from the EIT.

The KIC Partners must inform the KIC LE — which must immediately inform the EIT — of any changes in the security context and — if necessary — request for Annex 1 to the Specific Agreement to be amended (see Article 61).

43.3 Activities involving dual-use goods or dangerous materials and substances

Activities involving dual-use goods or dangerous materials and substances must comply with applicable EU, national and international law.

Before the beginning of the activity, the KIC LE must submit to the EIT (see Article 58) a copy of any export or transfer licences required under EU, national or international law.

43.4 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 44 — PROMOTING THE KIC — VISIBILITY OF THE EIT AND EU FUNDING

44.1 Communication activities by the KIC Partners

44.1.1 Obligation to promote the specific action and its results

The KIC Partners must promote the specific action and its results by providing targeted information to multiple audiences (including the media and the public) in a strategic and effective manner.

This does not change the specific dissemination obligations in Article 35, the confidentiality obligations in Article 42 or the security obligations in Article 43, all of which still apply.

Before engaging in a communication activity expected to have a major media impact, the KIC Partners must inform the EIT (see Article 58).

44.1.2 Information on EIT and EU funding — Obligation and right to use the EIT KIC logo and the EU emblem

Unless the EIT requests or agrees otherwise or unless it is impossible, any communication activity related to the specific action (including in electronic form, via social media, etc.) as well as any infrastructure, equipment and major results funded by the specific grants must:

- (a) display the EIT KIC logo as adopted by the EIT;
- (b) display the EU emblem;
- (c) follow the brand guidelines outlined in the EIT Community Brand Book as adopted by the EIT; and
- (d) include the following text:

For communication activities: 'This activity has received funding from the European Institute of Innovation and Technology (EIT). This body of the European Union receives support from the European Union's Horizon 2020 research and innovation programme.'

For infrastructure, equipment and major results: 'This *[infrastructure]* *[equipment]* *[insert type of result]* is part of an activity that has received funding from the European Institute of Innovation and Technology (EIT). This body of the European Union receives support from the European Union's Horizon 2020 research and innovation programme.'

When displayed together with another logo, the EIT KIC logo and the EU emblem must have appropriate prominence.

For the purposes of their obligations under this Article, the KIC Partners may use the EIT KIC logo and the EU emblem without prior approval from the EIT.

This does not, however, give them the right to exclusive use.

Moreover, they may not appropriate the EIT KIC logo or the EU emblem (or any similar trademark or logo), either by registration or by any other means.

44.1.3 Disclaimer excluding EIT responsibility

Any communication activity related to the specific action must indicate that it reflects only the author's view and that the EIT is not responsible for any use that may be made of the information it contains.

44.2 Communication activities by the EIT

44.2.1 Right to use KIC's materials, documents or information

The EIT may use, for its communication and dissemination activities, information relating to the specific action, documents notably summaries for publication and public deliverables as well as any other material, such as pictures or audio-visual material that it receives from any KIC Partner (including in electronic form).

This does not change the confidentiality obligations in Article 42 and the security obligations in Article 43, all of which still apply.

However, if the EIT's use of these materials, documents or information would risk compromising legitimate interests, the KIC Partner concerned may request the EIT not to use it (see Article 58).

The right to use a KIC Partner's materials, documents and information includes:

- (a) **use for its own purposes** (in particular, making them available to persons working for the EIT or any other EU institution, agency or body, or institutions in EU Member States; and copying or reproducing them in whole or in part, in unlimited numbers);
- (b) **distribution to the public** (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes);
- (c) **editing or redrafting** for communication and publicising activities (including shortening, summarising, inserting other elements (such as meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation);
- (d) **translation**;
- (e) giving **access in response to individual requests** under Regulation No 1049/2001 , without the right to reproduce or exploit;
- (f) **storage** in paper, electronic or other form;
- (g) **archiving**, in line with applicable document-management rules, and
- (h) the right to authorise **third parties** to act on its behalf or sub-license the modes of use set out in Points (b),(c),(d) and (f) to third parties, if needed for the communication and publicising activities of the EIT.

If the right of use is subject to rights of a third party (including personnel of the KIC Partner), the KIC Partner must ensure that it complies with its obligations under the Framework Partnership Agreement and the Specific Agreement (in particular, by obtaining the necessary approval from the third parties concerned).

Where applicable (and if provided by the KIC Partners), the EIT will insert the following information:

"© - [year] - [name of the copyright owner]. All rights reserved. Licensed to the European Institute of Innovation and Technology (EIT) under conditions."

44.3 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under this Article, the specific grant may be reduced (see Article 49).

Such breaches may also lead to any of the other measures described in Section 5.

ARTICLE 45 — PROCESSING OF PERSONAL DATA

45.1 Processing of personal data by the EIT and the Commission

Any personal data under the Framework Partnership Agreement and the Specific Agreements will be processed by the EIT or the Commission under Regulation No 45/2001⁸ and according to the '**notifications of the processing operations**' to the Data Protection Officer (DPO) of the EIT or of the Commission (publicly accessible in the DPO register).

Such data will be processed by the '**data controller**' of the EIT or of the Commission for the purposes of implementing, managing and monitoring of those agreements or protecting the financial interests of the EIT, the EU or Euratom (including checks, reviews, audits and investigations; see Article 28).

The persons whose personal data are processed have the right to access and correct their own personal data. For this purpose, they must send any queries about the processing of their personal data to the data controller, via the contact point indicated in the '**service specific privacy statement**' on the EIT's and the Commission's website.

They also have the right to have recourse at any time to the European Data Protection Supervisor (EDPS).

45.2 Processing of personal data by the KIC Partners

The KIC Partners must process personal data under the Framework Partnership Agreement and Specific Agreements in compliance with the applicable EU and national law on data protection (including authorisations or notification requirements).

The KIC Partners may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring of those agreements.

The KIC Partners must inform the personnel whose personal data are collected and processed by the EIT or the Commission. For this purpose, they must provide them with the service specific privacy statement (see above), before transmitting their data to the EIT or the Commission.

⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p. 1).

45.3 Consequences of non-compliance

If a KIC Partner breaches any of its obligations under Article 45.2, the EIT may apply any of the measures described in Section 5.

ARTICLE 46 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE EIT

The KIC Partners may not assign any of their claims for payment against the EIT to any third party, except if approved by the EIT on the basis of a reasoned, written request by the KIC LE (on behalf of the KIC Partner concerned).

If the EIT has not accepted the assignment or the terms of it are not observed, the assignment will have no effect on it.

In no circumstances will an assignment release the KIC Partners from their obligations towards the EIT.

SECTION 4 DIVISION OF KIC PARTNERS' ROLES AND RESPONSIBILITIES

ARTICLE 47 — DIVISION OF KIC PARTNERS' ROLES AND RESPONSIBILITIES

47.1 Roles and responsibilities towards the EIT

The KIC Partners have full responsibility for implementing the action ("action" in the context of this article means the particular KIC added value activity in which the KIC Partner participates) as described in Annex 1 to the Specific Agreement and complying with the Framework Partnership Agreement and the Specific Agreement.

The KIC Partners are jointly and severally liable for the **technical implementation** of the action as described in Annex 1 to the Specific Agreement. If a KIC Partner fails to implement its part of the action, the other KIC Partners become responsible for implementing this part (without being entitled to any additional EIT funding for doing so), unless the EIT expressly relieves them of this obligation.

The **financial responsibility** of each KIC Partner is governed by Articles 50, 51 and 52.

47.2 Internal division of roles and responsibilities

The internal roles and responsibilities of the KIC Partners are divided as follows:

- (a) Each KIC Partner must:
 - (i) not applicable;

- (ii) inform the KIC LE immediately of any events and circumstances likely to affect significantly or delay the implementation of a specific action (see Article 23);
- (iii) submit to the KIC LE in good time:
 - individual financial statements for itself and its linked third parties and, if required, certificates on the financial statements (see Article 16 SGA);
 - the data needed to draw up the technical report (see Article 16 SGA);
 - ethics committee opinions and notifications or authorisations for activities raising ethical issues (see Article 40);
 - any other documents or information required by the EIT under the Framework Partnership Agreement or the Specific Agreement, unless those agreements require the KIC Partner to submit this information directly to the EIT.
- (b) The KIC LE must:
 - (i) monitor that the specific action is implemented properly (see Article 12);
 - (ii) act as the intermediary for all communications between the KIC Partners and the EIT (in particular, providing the EIT with the information described in Article 23), unless the Framework Partnership Agreement or the Specific Agreement specify otherwise;
 - (iii) request and review any documents or information required by the EIT and verify their completeness and correctness and consolidate them before passing it on to the EIT;
 - (iv) submit the deliverables and reports to the EIT (see Articles 25 and Article 16 SGA);
 - (v) ensure that all payments are made to the other KIC Partners without unjustified delay (see Article 17 SGA);
 - (vi) inform the EIT of the amounts paid to each KIC Partner, when required under the Framework Partnership Agreement (see Articles 50 and 56) or requested by the EIT.

The KIC LE may not delegate the above-mentioned tasks to any other KIC Partner or subcontract them to any third party.

47.3 Internal arrangements

The KIC Partners must have internal arrangements regarding their operation and coordination to ensure that the specific actions are implemented properly (see Article 4).

47.4 Relationship with complementary beneficiaries — Collaboration agreement

Not applicable

47.5 Relationship with participants of a joint action — Coordination agreement

Not applicable

SECTION 5 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES — DAMAGES — SUSPENSION — TERMINATION — FORCE MAJEURE

SUBSECTION 1 REJECTION OF COSTS — REDUCTION OF THE GRANT — RECOVERY — PENALTIES

ARTICLE 48 — REJECTION OF INELIGIBLE COSTS

48.1 Conditions

48.1.1 The EIT will — at the time of the payment of the balance or afterwards — reject any costs for a specific action which are ineligible (see Article 5 SGA), in particular, following checks, reviews, audits or investigations (see Article 28).

48.1.2 The rejection may also be based on the extension of findings from other grants to a specific grant, under the conditions set out in Article 28.5.2.

48.2 Ineligible costs to be rejected — Calculation — Procedure

Ineligible costs will be rejected in full, except for lump sum costs, which will be rejected proportionally to the tasks or parts of the specific action not implemented.

If the EIT rejects costs **without reduction of the specific grant** (see Article 49) or **recovery of undue amounts** (see Article 50), it will formally notify the KIC LE or the KIC Partner concerned the rejection of costs, the amounts and the reasons why (if applicable, together with the notification of amounts due; see Article 27). The KIC LE or the KIC Partner concerned may — within 30 days of receiving notification — formally notify the EIT of its disagreement and the reasons why.

If the EIT rejects costs **with reduction of the specific grant** or **recovery of undue amounts**, it will formally notify the rejection in the '**pre-information letter**' on reduction or recovery set out in Articles 49 and 50.

48.3 Effects

If the EIT rejects costs at the time of the **payment of the balance**, it will deduct them from the total eligible costs declared, for the specific action, in the financial statement (see Article 16 SGA). It will then calculate the payment of the balance (see Article 17 SGA).

If the EIT rejects costs **after the payment of the balance**, it will deduct the amount rejected from the total eligible costs declared, by the KIC Partner, in the financial statement. It will then calculate the revised final grant amount as set out in Article 10.4.

ARTICLE 49 — REDUCTION OF THE GRANT

49.1 Conditions

49.1.1 The EIT may — **at the payment of the balance** or **afterwards** — reduce the maximum grant amount (see Article 4 SGA), if a specific action has not been implemented properly as described in Annex 1 to the Specific Agreement concerned or another obligation under the Framework Partnership Agreement or that Specific Agreement has been breached.

49.1.2 The EIT may also reduce the maximum grant amount on the basis of the **extension of findings from other grants to a specific grant**, under the conditions set out in Article 28.5.2.

49.2 Amount to be reduced — Calculation — Procedure

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

Before reduction of the specific grant, the EIT will formally notify a '**pre-information letter**' to the KIC LE or the KIC Partner concerned:

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

If the EIT does not receive any observations or decides to pursue reduction despite the observations it has received, it will formally notify **confirmation** of the reduction (if applicable, together with the notification of amounts due; see Article 17 SGA).

49.3 Effects

If the EIT reduces the specific grant **at the time of the payment of the balance**, it will calculate the reduced grant amount for the specific action and then determine the amount due as payment of the balance (see Article 10.3.4 and Article 17 SGA).

If the EIT reduces the specific grant **after the payment of the balance**, it will calculate the revised final grant amount for the KIC Partner concerned (see Article 10.4). If the revised final grant amount for the KIC Partner concerned is lower than its share of the final grant amount, the EIT will recover the difference (see Article 50).

ARTICLE 50 — RECOVERY OF UNDUE AMOUNTS

50.1 Amount to be recovered — Calculation — Procedure

The EIT will — **after termination of the participation of a KIC Partner, at the payment of the balance or afterwards** — claim back any amount that was paid but is not due for a specific grant under the Framework Partnership Agreement and the Specific Agreement concerned.

Each KIC Partner's financial responsibility in case of recovery is limited to its own debt including undue amounts paid by the EIT for costs declared by its linked third parties, except for the amount retained for the Guarantee Fund (see Article 17 SGA).

50.1.1 Recovery after termination of a KIC Partner's participation

If recovery takes place after termination of a KIC Partner's participation (including the KIC LE), the EIT will claim back the undue amount from the KIC Partner concerned by formally notifying it a debit note (see Article 56.2 and 56.3). This note will specify the amount to be recovered, the terms and the date for payment.

If payment is not made by the date specified in the debit note, the EIT will recover the amount as follows:

- (a) by **'offsetting'** it — without the KIC Partner's consent — against any amounts owed to the KIC Partner concerned by the EIT.

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

- (b) not applicable;
- (c) **taking legal action** (see Article 63).

If payment is not made by the date specified in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 17 of the Specific Agreement, from the day following the payment date in the debit note, up to and including the date the EIT receives full payment of the amount.

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

Bank charges incurred in the recovery process will be borne by the KIC Partner, unless Directive 2007/64/EC⁹ applies.

⁹ Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 05.12.2007, p. 1).

50.1.2 Recovery at payment of the balance

If the payment of the balance takes the form of a recovery (see Article 17 SGA), the EIT will formally notify a '**pre-information letter**' to the KIC LE:

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

If no observations are submitted or the EIT decides to pursue recovery despite the observations it has received, it will **confirm recovery** (together with the notification of amounts due; see Article 17 SGA) and:

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

If the KIC LE does not repay the EIT by the date in the debit note and has not submitted the report on the distribution of payments: the EIT will **recover** the amount set out in the debit note from the KIC LE (see below).

If the KIC LE does not repay the EIT by the date in the debit note, but has submitted the report on the distribution of payments: the EIT will

- a) identify the KIC Partners for which the amount calculated as follows is negative:

{KIC Partner's costs declared in the final summary financial statement and approved by the EIT multiplied by the reimbursement rate set out in Article 4 of the Specific Agreement for the KIC Partner concerned

[plus

its linked third parties' costs declared in the final summary financial statement and approved by the EIT multiplied by the reimbursement rate set out in Article 4 of the Specific Agreement for each linked third party concerned]]

divided by

the EU contribution for the specific action calculated according to Article 10.3.1}

multiplied by

the final grant amount (see Article 10.3)),

minus

{pre-financing payment received by the KIC Partner}}.

- b) formally notify to each KIC Partner identified according to point (a) a debit note specifying the terms and date for payment. The amount of the debit note is calculated as follows:

{{amount calculated according to point (a) for the KIC Partner concerned divided by

the sum of the amounts calculated according to point (a) for all the KIC Partners identified according to point (a)}

multiplied by

the amount set out in the debit note formally notified to the KIC LE}.

If payment is not made by the date specified in the debit note, the EIT will recover the amount:

- (a) by **offsetting** it — without the KIC Partner's consent — against any amounts owed to the KIC Partner concerned by the EIT.

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

- (b) by **drawing on the Guarantee Fund**. The EIT will formally notify the KIC Partner concerned the debit note on behalf of the Guarantee Fund and recover the amount by taking legal action (see Article 63).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 17 of the Specific Agreement, from the day following the payment date in the debit note, up to and including the date the EIT receives full payment of the amount.

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

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

50.1.3 Recovery of amounts after payment of the balance

If for a KIC Partner, the revised final grant amount (see Article 10.4) is lower than its share of the final grant amount, it must repay the difference to the EIT.

The KIC Partner's share of the final grant amount is calculated as follows:

{{KIC Partner's costs declared in the final summary financial statement and approved by the EIT multiplied by the reimbursement rate set out in Article 4 of the Specific Agreement for the KIC Partner concerned

[plus

its linked third parties' costs declared in the final summary financial statement and approved by the EIT multiplied by the reimbursement rate set out in Article 4 of the Specific Agreement for each linked third party concerned}}

divided by

the EIT contribution for the action calculated according to Article 10.3.1}

multiplied by

the final grant amount (see Article 10.3)}.

If the KIC LE has not distributed amounts received (see Article 17 SGA), the EIT will also recover these amounts.

The EIT will formally notify a **pre-information letter** to the KIC Partner concerned:

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

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

If payment is not made by the date specified in the debit note, the EIT will **recover** the amount:

- (a) by **offsetting** — without the KIC Partner's consent — it against any amounts owed to the KIC Partner concerned by the EIT.

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

- (b) by **drawing on the Guarantee Fund**. The EIT will formally notify the KIC Partner concerned the debit note on behalf of the Guarantee Fund and recover the amount by **taking legal action** (see Article 63).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 17 SGA, from the day following the date for payment in the debit note, up to and including the date the EIT receives full payment of the amount.

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

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

ARTICLE 51 — ADMINISTRATIVE AND FINANCIAL PENALTIES

51.1 Conditions

Under Articles 109 and 131(4) of the Financial Regulation No 966/2012, the EIT may impose **administrative and financial penalties** if a KIC Partner:

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

Each KIC Partner is responsible for paying the financial penalties imposed on it.

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

51.2 Duration — Amount of penalty — Calculation

Administrative penalties exclude the KIC Partner from all EIT contracts and grants for a maximum of five years from the date the infringement is established by the EIT.

If the KIC Partner commits another infringement within five years of the date the first infringement is established, the EIT may extend the exclusion period up to 10 years.

Financial penalties will be between 2% and 10% of the maximum EIT contribution indicated, for the KIC Partner concerned, in the estimated budget (see Annex 2 SGA).

If the KIC Partner commits another infringement within five years of the date the first infringement is established, the EIT may increase the rate of financial penalties to between 4% and 20%.

51.3 Procedure

Before applying a penalty, the EIT will formally notify the KIC Partner concerned:

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

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

The EIT will inform the Commission of any penalty imposed.

If payment is not made by the date specified in the debit note, the EIT may **recover** the amount:

- (a) by **offsetting** it— without the KIC Partner's consent — against any amounts owed to the KIC Partner concerned by the EIT.

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

- (c) by **taking legal action** (see Article 63).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 17 of the Specific Agreement, from the day following the payment date in the debit note, up to and including the date the EIT receives full payment of the amount.

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

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

SUBSECTION 2 LIABILITY FOR DAMAGES

ARTICLE 52 — LIABILITY FOR DAMAGES

52.1 Liability of the EIT

The EIT cannot be held liable for any damage caused to the KIC Partners or to third parties as a consequence of implementing the Framework Partnership Agreement or a Specific Agreement, including for gross negligence.

The EIT cannot be held liable for any damage caused by any of the KIC Partners or third parties involved in the specific action, as a consequence of implementing the Framework Partnership Agreement or a Specific Agreement.

52.2 Liability of the KIC Partners

52.2.1 Conditions

Except in case of force majeure (see Article 57), the KIC Partners must compensate the EIT for any damage the EIT sustains as a result of the implementation of a specific action or because a specific action was not implemented in full compliance with the Framework Partnership Agreement or a Specific Agreement.

Each KIC Partner is responsible for paying the damages claimed from it.

52.2.2 Amount of damages - Calculation

The amount the EIT can claim from a KIC Partner will correspond to the damage caused by that KIC Partner.

52.2.3 Procedure

Before claiming damages, the EIT will formally notify the KIC Partner concerned:

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

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

If payment is not made by the date specified in the debit note, the EIT may recover the amount:

- (a) by **offsetting** it — without the KIC Partner's consent — against any amounts owed to the KIC Partner concerned by the EIT.

In exceptional circumstances, to safeguard its financial interests, the EIT may offset before the payment date in the debit note;

- (b) by **taking legal action** (see Article 63).

If payment is not made by the date in the debit note, the amount to be recovered (see above) will be increased by **late-payment interest** at the rate set out in Article 17 SGA, from the day following the payment date in the debit note, up to and including the date the EIT receives full payment of the amount.

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

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

SUBSECTION 3 SUSPENSION AND TERMINATION

ARTICLE 53 — SUSPENSION OF PAYMENT DEADLINE

53.1 Conditions

The EIT may — at any moment — suspend the payment deadline in a specific grant (see Article 17 SGA) if a request for payment (see Article 16 SGA) cannot be approved because:

- (a) it does not comply with the provisions of the Specific Agreement (see Article 16 SGA);
- (b) the final report has not been submitted or is not complete or additional information is needed, or
- (c) there is doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

53.2 Procedure

The EIT will formally notify the KIC LE of the suspension and the reasons why.

The suspension will **take effect** the day notification is sent by the EIT (see Article 58).

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

If the suspension exceeds two months, the KIC LE may request the EIT if the suspension will continue.

If the payment deadline has been suspended due to the non-compliance of the final report (see Article 16 SGA) and the revised report or statement is not submitted or was submitted but is also rejected, the EIT may also terminate the Specific Agreement concerned or the participation of the KIC Partner (see Article 56.3.1(j)).

ARTICLE 54 — SUSPENSION OF PAYMENTS

54.1 Conditions

The EIT may — at any moment — suspend for a specific grant, in whole or in part, the pre-financing payment for one or more KIC Partners or the payment of the balance for all KIC Partners, if a KIC Partner:

- a) has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under the Framework Agreement or a Specific Agreement or
- b) has committed — in other EIT, EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on the specific grant (**extension of findings from other grants to the specific grant**; see Article 28.5.2).

54.2 Procedure

Before suspending payments, the EIT will formally notify the KIC LE:

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

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

The suspension will **take effect** the day the confirmation notification is sent by the EIT.

If the conditions for resuming payments are met, the suspension will be lifted. The EIT will formally notify the KIC LE.

The KIC Partners may suspend implementation of the specific action (see Article 55.1) or terminate the Specific Agreement concerned or the participation of the KIC Partner concerned (see Articles 56.1 and 56.2).

ARTICLE 55 — SUSPENSION OF THE IMPLEMENTATION OF THE SPECIFIC ACTION

55.1 Suspension of the implementation of the specific action, by the KIC Partners

55.1.1 Conditions

The KIC Partners may suspend implementation of a specific action or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 57) — make implementation impossible or excessively difficult.

55.1.2 Procedure

The KIC LE must immediately formally notify to the EIT of the suspension (see Article 58), stating:

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

The suspension will **take effect** the day this notification is received by the EIT.

Once circumstances allow for implementation to resume, the KIC LE must immediately formally notify the EIT and request an amendment of the Specific Agreement concerned to set the date on which the specific action will be resumed, extend the duration of the specific action and make other changes necessary to adapt the specific action to the new situation (see Article 61) — unless the Specific Agreement or the participation of a KIC Partner has been terminated (see Article 56).

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

Costs incurred during suspension of the implementation of the specific action are not eligible (see Article 5 SGA).

55.2 Suspension of the implementation of the specific action, by the EIT

55.2.1 Conditions

The EIT may suspend implementation of a specific action or any part of it:

- (a) if a KIC Partner has committed or is suspected of having committed substantial errors, irregularities, fraud or serious breach of obligations in the award procedure or under the Framework Partnership Agreement or a Specific Agreement;
- (b) if a KIC Partner has committed — in other EIT, EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on the specific grant (**extension of findings from other grants to the specific grant**; see Article 28.5.2).
- (c) not applicable.

55.2.2 Procedure

Before suspending implementation of the specific action, the EIT will formally notify the KIC LE:

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

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

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

It will be **lifted** if the conditions for resuming implementation of the specific action are met. The KIC LE will be formally notified of the lifting and the Specific Agreement concerned will be amended to set the date on which the specific action will be resumed, extend the duration of the specific action and make other changes necessary to adapt the specific action to the new situation (see Article 61) — unless the Agreement has already been terminated (see Article 56).

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

Costs incurred during suspension are not eligible (see Article 5 SGA).

The KIC Partners may not claim damages due to suspension by the EIT (see Article 52).

Suspension of the implementation of the specific action does not affect the EIT's right to terminate the Agreement or participation of a KIC Partner (see Article 56), reduce the grant or recover amounts unduly paid (see Articles 49 and 50).

ARTICLE 56 — TERMINATION OF THE SPECIFIC AGREEMENT OR OF THE PARTICIPATION OF ONE OR MORE KIC PARTNERS

56.1 Termination of the Specific Agreement, by the KIC Partners

56.1.1 Conditions and procedure

The KIC Partners may terminate a Specific Agreement.

The KIC LE must formally notify termination to the EIT (see Article 58), stating:

- the reasons why and

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

If no reasons are given or if the EIT considers the reasons do not justify termination, the Specific Agreement concerned will be considered to have been **‘terminated improperly’**.

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

56.1.2 Effects

The KIC LE must — within 60 days from when termination takes effect — submit **a final report** (see Article 16 SGA).

If the EIT does not receive the report within the deadline (see above), no costs are considered as eligible.

The EIT will **calculate** the final grant amount (see Article 10.3) and the balance (see Article 17 SGA) on the basis of the report submitted. Only costs incurred until termination are eligible. Costs relating to contracts due for execution only after termination are not eligible.

Improper termination may lead to a reduction of the grant (see Article 49).

After termination, the KIC Partners' obligations (in particular Articles 26, 28, 29, Subsection 3 of Section 3 of Chapter 3, 42, 43, 44, 46) continue to apply.

56.2 Termination of the participation of one or more KIC Partners, by the KIC Partners

56.2.1 Conditions and procedure

The participation of one or more KIC Partners in a specific action may be terminated by the KIC LE, on request of the KIC Partner concerned or on behalf of the other KIC Partners; such a request shall be made in compliance with the KIC's governance rules.

The KIC LE must formally notify termination to the EIT (see Article 58) and inform the KIC Partner concerned.

If the KIC LE's participation is terminated, the formal notification must be done by another KIC Partner (acting on behalf of all the other KIC Partners).

The notification must include:

- the reasons why;
- the opinion of the KIC Partner concerned (or proof that this opinion has been requested in writing);
- the date the termination takes effect. This date must be after the notification;

- a request for amendment (see Article 61), with a proposal for reallocation of the tasks and the estimated budget of the KIC Partner concerned (see Annexes 1 and 2 SGA) and, if necessary, the addition of one or more new KIC Partners (see Article 62). If termination takes effect after the period set out in Article 3 of the Specific Agreement, no request for amendment must be included unless the KIC Partner concerned is the KIC LE. In this case, the request for amendment must propose a new KIC LE.

If this information is not given or if the EIT considers that the reasons do not justify termination, the participation will be considered to have been **terminated improperly**.

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

56.2.2 Effects

The KIC LE must — within 30 days from when termination takes effect — submit:

- a report on the distribution of payments to the KIC Partner concerned and
- if termination takes effect during the period set out in Article 3 of the Specific Agreement, a **'termination report'** from the KIC Partner concerned, containing an overview of the progress of the work until termination, an overview of the use of resources, the individual financial statement and, if applicable, the certificate on the financial statement (see Article 16 SGA).

The information in the termination report must also be included in the final report (see Article 16 SGA).

If the request for amendment is rejected by the EIT (because it calls into question the decision awarding the specific grant or breaches the principle of equal treatment of applicants or the KICs), the Specific Agreement concerned may be terminated according to Article 56.3.1(c).

If the request for amendment is accepted by the EIT, the Specific Agreement concerned is **amended** to introduce the necessary changes (see Article 61).

The EIT will **calculate** — on the basis of the termination report and the report on the distribution of payments — if the pre-financing payment received by the KIC Partner concerned exceed the KIC Partner's EIT contribution (calculated by applying the reimbursement rate(s) to the eligible costs declared by the KIC Partner and its linked third parties and approved by the EIT. Only costs incurred by the KIC Partner concerned until termination takes effect are eligible (see Article 5 SGA). Costs relating to contracts due for execution only after termination are not eligible.

- If the payments received **exceed the amounts due**:

- if termination takes effect during the period set out in Article 3 of the Specific Agreement and the request for amendment is accepted, the KIC Partner concerned must repay to the KIC LE the amount unduly received. The EIT will formally notify the amount unduly received and request the KIC Partner concerned to repay it to the KIC LE within 30 days of receiving notification. If it does not repay the KIC LE, the EIT will draw upon the Guarantee Fund to pay the KIC LE and then notify a debit note on behalf of the Guarantee Fund to the KIC Partner concerned (see Article 50);
- in all other cases (in particular if termination takes effect after the period set out in Article 3 of the Specific Agreement), the EIT will formally notify a debit note to the KIC Partner concerned. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the EIT the amount due and the EIT will notify a debit note on behalf of the Guarantee Fund to the KIC Partner concerned (see Article 50);
- if the KIC Partner concerned is the former KIC LE, it must repay the new KIC LE the amount unduly received;

In this case, the EIT will formally notify a debit note to the former KIC LE. If payment is not made by the date in the debit note, the Guarantee Fund will pay to EIT the amount due. The EIT will then pay the new KIC LE and notify a debit note on behalf of the Guarantee Fund to the former KIC LE (see Article 50).

- If the payments received **do not exceed the amounts due**: amounts owed to the KIC Partner concerned will be included in the payment of the balance.

If the EIT does not receive the termination report within the deadline (see above), the EIT will not consider any cost as eligible.

If the EIT does not receive the report on the distribution of payments within the deadline (see above), it will consider that:

- the KIC LE did not distribute any payment to the KIC Partner concerned, and that
- the KIC Partner concerned must not repay any amount to the KIC LE.

Improper termination may lead to a reduction of the specific grant (see Article 49) or termination of the Specific Agreement concerned (see Article 56).

After termination, the concerned KIC Partner's obligations (in particular Articles 26, 28, 29, Subsection 3 of Section 3 of Chapter 3, 42, 43, 44, 46) continue to apply.

56.3 Termination of the Specific Agreement or participation for one or more KIC Partners, by the EIT

56.3.1 Conditions

The EIT may terminate a Specific Agreement or the participation of one or more KIC Partners in a specific action, if:

- (a) one or more KIC Partner do not accede to the Framework Partnership Agreement
- (b) a change to their legal, financial, technical, organisational or ownership situation (or those of its linked third parties) is likely to substantially affect or delay the implementation of the specific action or calls into question the decision to award the specific grant;
- (c) following termination of participation for one or more KIC Partners (see above), the necessary changes to the Specific Agreement would call into question the decision awarding the specific grant or breach the principle of equal treatment of applicants or the KICs (see Article 61);
- (d) implementation of the specific action is prevented by force majeure (see Article 57) or suspended by the KIC LE (see Article 55.1) and either:
 - (i) resumption is impossible, or
 - (ii) the necessary changes to the Specific Agreement would call into question the decision awarding the specific grant or breach the principle of equal treatment of applicants or the KICs;
- (e) a KIC Partner is declared bankrupt, being wound up, having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, or is subject to any other similar proceedings or procedures under national law;
- (f) a KIC Partner (or a natural person who has the power to represent or take decisions on its behalf) has been found guilty of professional misconduct, proven by any means;
- (g) a KIC Partner does not comply with the applicable national law on taxes and social security;
- (h) not applicable;
- (i) a KIC Partner (or a natural person who has the power to represent or take decisions on its behalf) has committed fraud, corruption, or is involved in a criminal organisation, money laundering or any other illegal activity affecting the EU's financial interests;
- (j) a KIC Partner (or a natural person who has the power to represent or take decisions on its behalf) has — in the award procedure or under the Framework Partnership Agreement or the Specific Agreement — committed:

- (i) substantial errors, irregularities, fraud or
- (ii) serious breach of obligations, including improper implementation of the specific action, submission of false information, failure to provide required information, breach of ethical principles;
- (k) a KIC Partner has committed — in other EIT, EU or Euratom grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on the specific grant (**'extension of findings from other grants to the specific grant'**);

The Specific Agreements may provide for additional grounds for termination (see Article 20 SGA).

56.3.2 Procedure

Before terminating the Specific Agreement or participation of one or more KIC Partners, the EIT will formally notify the KIC LE:

- informing it of its intention to terminate and the reasons why and
- inviting it, within 30 days of receiving notification, to submit observations and — in case of Point (j.ii) above — to inform the EIT of the measures to ensure compliance with the obligations under the Framework Partnership Agreement and the Specific Agreement concerned.

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

The termination will **take effect**:

- for terminations under Points (b), (c), (e), (g), (h) and (j.ii) above: on the day specified in the notification of the confirmation (see above);
- for terminations under Points (a), (d), (f), (i), (j.i) and (k) above: on the day after the notification of the confirmation is received by the KIC LE.

56.3.3 Effects

- (a) for **termination of the Agreement**:

The KIC LE must — within 60 days from when termination takes effect — submit the final report (see Article 16 SGA).

If the Specific Agreement is terminated for breach of the obligation to submit the final report (see Article 52.3.1(j) and Article 16 SGA) the KIC LE may not submit any reports after termination.

If the EIT does not receive the report within the deadline (see above), the EIT will not consider any cost as eligible for the specific action.

The EIT will calculate the final grant amount (see Article 10.3) and the balance (see Article 17 SGA) on the basis of the report submitted. Only costs incurred until termination takes effect are eligible (see Article 5 SGA). Costs relating to contracts due for execution only after termination are not eligible.

This does not affect the EIT's right to reduce the specific grant (see Article 49) or to impose administrative and financial penalties (Article 51).

The KIC Partners may not claim damages due to termination by the EIT (see Article 52).

After termination, the KIC Partners' obligations (in particular Articles 26, 28, 29, Subsection 3 of Section 3 of Chapter 3, 42, 43, 44, 46) continue to apply.

(b) for **termination of the participation of one or more KIC Partners:**

The KIC LE must — within 60 days from when termination takes effect — submit:

- (i) a report on the distribution of payments to the KIC Partner concerned;
- (ii) a request for amendment (see Article 61), with a proposal for reallocation of the tasks and the estimated budget of the KIC Partner concerned (see Annexes 1 and 2 SGA) and, if necessary, the addition of one or more new KIC Partners (see Article 62). If termination takes effect after the period set out in Article 3 of the Specific Agreement, no request for amendment must be included unless the KIC Partner concerned is the KIC LE. In this case, the request for amendment must propose a new KIC LE, and
- (iii) if termination takes effect during the period set out in Article 3 of the Specific Agreement, a **termination report** from the KIC Partner concerned, containing an overview of the progress of the work until termination, an overview of the use of resources, the individual financial statement and, if applicable, the certificate on the financial statement (see Article 16 SGA);

The information in the termination report must also be included in the final report (see Article 16 SGA).

If the request for amendment is rejected by the EIT (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants or the KICs), the Specific Agreement may be terminated according to Article 56.3.1(c).

If the request for amendment is accepted by the EIT, the Specific Agreement is **amended** to introduce the necessary changes (see Article 61).

The EIT will **calculate** — on the basis of the termination report and the report on the distribution of payments — if the pre-financing payment received by the KIC Partner concerned exceed the KIC Partner's EU contribution (calculated by applying the reimbursement rate(s) to the eligible costs declared by the KIC Partner and its linked third parties and approved by the EIT). Only costs incurred by the KIC Partner concerned until termination takes effect are eligible (see Article 5 SGA). Costs relating to contracts due for execution only after termination are not eligible.

- If the payments received **exceed the amounts due**:
 - if termination takes effect during the period set out in Article 3 of the Specific Agreement and the request for amendment is accepted, the KIC Partner concerned must repay to the KIC LE the amount unduly received. The EIT will formally notify the amount unduly received and request the KIC Partner concerned to repay it to the KIC LE within 30 days of receiving notification. If it does not repay the KIC LE, the EIT will draw upon the Guarantee Fund to pay the KIC LE and then notify a debit note on behalf of the Guarantee Fund to the KIC Partner concerned (see Article 50);
 - in all other cases, in particular if termination takes effect after the period set out in Article 3 of the Specific Agreement, the EIT will formally notify a debit note to the KIC Partner concerned. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the EIT the amount due and the EIT will notify a debit note on behalf of the Guarantee Fund to the KIC Partner concerned (see Article 50) ;
 - if the KIC Partner concerned is the former KIC LE, it must repay the new KIC LE the amount unduly received.
 In this case, the EIT will formally notify a **debit note** to the former KIC LE. If payment is not made by the date in the debit note, the Guarantee Fund will pay to the EIT the amount due. The EIT will then pay the new KIC LE and notify a debit note on behalf of the Guarantee Fund to the former KIC LE (see Article 50).
- If the payments received **do not exceed the amounts due**: amounts owed to the KIC Partner concerned will be included in the payment of the balance.

If the EIT does not receive the termination report within the deadline (see above), the EIT will not consider any cost as eligible.

If the EIT does not receive the report on the distribution of payments within the deadline (see above), it will consider that:

- the KIC LE did not distribute any payment to the KIC Partner concerned, and that
- the KIC Partner concerned must not repay any amount to the KIC LE.

After termination, the concerned KIC Partner's obligations (in particular Articles 26, 28, 29, Subsection 3 of Section 3 of Chapter 3, 42, 43, 44, 46) continue to apply.

SUBSECTION 4 FORCE MAJEURE

ARTICLE 57 — FORCE MAJEURE

'Force majeure' means any situation or event that:

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

The following cannot be invoked as force majeure:

- any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure,
- labour disputes or strikes, or
- financial difficulties.

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

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

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

CHAPTER 4 FINAL PROVISIONS

ARTICLE 58 — COMMUNICATIONS BETWEEN THE PARTIES SIGNING THE FRAMEWORK PARTNERSHIP AGREEMENT

58.1 Form and means of communications

Communication under the Framework Partnership Agreement and the Specific Agreements (information, requests, submissions, formal notifications, etc.) must:

- be made in writing and
- bear the number of the Framework Partnership Agreement and the Specific Agreement concerned;
- be submitted to the addresses listed in Article 58.3.

Communication may be made either:

- through the EIT dedicated electronic exchange platform and using the forms and templates provided there;
- electronically in the form of e-mail; or
- by registered post with proof of delivery ('formal notification on paper').

If the electronic exchange system is temporarily unavailable, instructions will be provided by the EIT.

Formal notifications must be made by registered post with proof of delivery.

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

Communications from the other KIC Partners shall be channelled via the KIC LE.

58.2 Date of communications

Communications are considered to have been made when they are received by the receiving party, unless the Framework Partnership Agreement or the Specific Agreement refers to the date when the communication was sent.

Electronic communications are considered to have been made on the day of successful dispatch of the communication, provided that it is sent to the addressees listed in Article 58.3. Dispatch is considered unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party must immediately send again such communication to any of the other addresses listed in Article 58.3. In case of unsuccessful dispatch, the sending party will not be held in breach of its obligation to send such communication within a specified deadline.

Formal notifications on paper sent by registered post with proof of delivery are considered to have been made on either:

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

Formal notifications through the EIT dedicated electronic exchange platform are considered to have been made when they are received by the receiving party (i.e. on the date and time of acceptance by the receiving party). A formal notification that has not been accepted within 30 days after sending is considered to have been accepted.

58.3 Addresses for communication

Communications addressed to the EIT must be sent to the following address:

Director
European Institute of Innovation and Technology - EIT
Infopark, Building E, 1 Neumann Janos Street
1117 Budapest
Hungary

E-mail address:

EIT-director@eit.europa.eu

Communications from the EIT to the KIC Partners must be sent to the KIC LE's legal address or e-mail address as specified in the preamble.

The electronic exchange platform can be accessed via the following URL:

<https://duna.eit.europa.eu>

The EIT will formally notify the KIC LE in advance of any changes to this platform.

ARTICLE 59 — INTERPRETATION OF THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS

59.1 Precedence of the Terms and Conditions over the Annexes

The provisions in the Terms and Conditions of the Framework Partnership Agreement and the Specific Agreements take precedence over their Annexes.

The provisions in Annex 2 to the Specific Agreement take precedence over its Annex 1.

59.2 Precedence of the Terms and Conditions of the Specific Agreements over the Framework Partnership Agreement

The provisions in the ‘Terms and Conditions’ of the Specific Agreements take precedence over the Framework Partnership Agreement.

ARTICLE 60 — CALCULATION OF PERIODS, DATES AND DEADLINES

In accordance with Regulation No 1182/71¹⁰, periods expressed in days, months or years are calculated from the moment the triggering event occurs.

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

ARTICLE 61 — AMENDMENTS TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS

61.1 Conditions

The Framework Partnership Agreement and the Specific Agreements may be amended, unless the amendment entails changes to those agreements which would call into question the decisions awarding the framework partnership or specific grants concerned or breach the principle of equal treatment of the applicants or KICs.

Amendments may be requested by any of the parties signing the Framework Partnership Agreement.

61.2 Procedure

The party requesting an amendment must submit a request for amendment (see Article 58).

The KIC LE submits and receives requests for amendment on behalf of the KIC Partners (see Annex 4).

If a change of the KIC LE is requested, the submission must be done by another KIC Partner (acting on behalf of the other KIC Partners).

The request for amendment must include:

- the reasons why;
- the appropriate supporting documents, and
- for a change of the KIC LE: the opinion of the KIC LE (or proof that this opinion has been requested in writing).

The EIT may request additional information.

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

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

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

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

ARTICLE 62 — ACCESSION TO THE FRAMEWORK PARTNERSHIP AGREEMENT AND THE SPECIFIC AGREEMENTS

62.1 Accession of the KIC Partners mentioned in Annex 2

The other KIC Partners must accede to the Framework Partnership Agreement by signing the Accession Form (see Annex 4), within 120 days after its entry into force (see Article 64).

All KIC Partners having acceded to the Framework Partnership Agreement must be part of the Specific Agreements. The KIC Partners will accede to the Specific Agreement by signature of the KIC LE (mandate in Annex 4).

They will assume the rights and obligations under the agreements with effect from the date of their entry into force (see Article 64 and Article 21 SGA).

If a KIC Partner does not accede to the Framework Partnership Agreement within the above deadline, the KIC LE must — within 30 days — request an amendment to make any changes necessary to ensure proper implementation of the Strategic Agenda. This does not affect the EIT's right to terminate the agreements (see Articles 6 and 56).

62.2 Addition of new KIC Partners

In justified cases, the KIC Partners may request the addition of a new KIC Partner.

For this purpose, the KIC LE must submit a request for amendment of the Framework Partnership Agreement and the ongoing Specific Agreement in accordance with Article 61. The request must include an Accession Form (see Annex 4) signed by the new KIC Partner.

New KIC Partners must assume the rights and obligations under the agreements with effect from the date of their accession specified in the Accession Form (see Annex 4).

ARTICLE 63 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

63.1 Applicable law

The Framework Partnership Agreement and the Specific Agreements are governed by the applicable EU law, supplemented if necessary by the law of Belgium.

63.2 Dispute settlement

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

As an exception, if such a dispute is between the EIT and non-EU KIC Partner(s) (except KIC Partners established in an associated country with an association agreement to Horizon 2020 that stipulates sole jurisdiction of the European Court of Justice), the competent Belgian courts have sole jurisdiction.

For KIC Partners not receiving EIT funding under a Specific Agreement, such disputes must — if they cannot be settled amicably — be referred to arbitration.

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

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

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

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

If a dispute concerns administrative or financial penalties or offsetting (see Articles 50, 51 and 52), the KIC Partners must bring action before the General Court — or, on appeal, the Court of Justice of the European Union — under Article 263 TFEU.

ARTICLE 64 — ENTRY INTO FORCE OF THE FRAMEWORK PARTNERSHIP AGREEMENT

The Framework Partnership Agreement will enter into force on the day of signature by the EIT or the KIC LE, depending on which is later.

SIGNATURES

For the KIC LE

[function/forename/surname]
[signature]

For the EIT

[forename/surname]
[signature]

Done in [English] at [place] on [date]

Done in [English] at [place] on [date]

MODEL

List of KIC partners

KIC Partner	Short name	Legal form	SME ¹	AREA ²	Website (if available)	Official address in full	VAT number	Eligibility period (start)	Eligibility period (end)	CODE

¹ Please refer to the definition of the EC: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

² Either “Business”, “Cities, Regions, NGOs”, “Research”, “Higher Education”

ACCESSION FORM FOR KIC PARTNERS

[Full official name of the KIC Partner/new KIC Partner/new KIC LE (short name)][legal form], [KIC Partner No], established in [official address in full] [VAT number], ([‘the KIC Partner’][‘the KIC LE’]), represented for the purpose of signing this Accession Form by [forename and surname, function],

hereby agrees

to become [KIC partner][KIC LE] No [insert KIC Partner no] in Framework Partnership Agreement (FPA) No [insert agreement number] (‘Agreement’) signed between [full official name of the KIC LE] and the European Institute of Innovation and Technology (‘the EIT’),

[OPTION for KIC partners/new KIC partners: and empowers

the KIC LE:

- to submit any proposals for the award of Specific Grants;
- to sign in its name and on its behalf all the Specific Agreements that may be awarded (see Articles 2 and 62 of the FPA);
- to submit and sign in its name and on its behalf any **amendments** to the Framework Partnership Agreement and Specific Agreements (see Article 61 of the FPA),

subject to the fulfilment of the KIC’s governance rules.

By signing this Accession Form, the KIC Partner accepts the grant and agrees to *[OPTION: for new KIC LEs: take on the obligations and role of KIC LE and to]* implement the grant in accordance with the Agreement, with all the obligations and conditions it sets out *[OPTION for new KIC Partners; as from [insert date][the date of signature of the Accession Form][the date of entry into force of the amendment] (‘accession date’) – if the EIT agrees with the request for amendment].*

SIGNATURE

For the KIC Partner/new KIC Partner/new KIC LE:

[function/forename/surname]

[signature]

Done in [English] at [place] on [date]

Annex 4 - FPA NUMBER [insert number] – [insert acronym]

Countersigned by KIC LE:

[fully official name of KIC LE]
[function/forename/surname]

[signature]
Done in [English] at [place] on [date]

MODEL

**List of linked third parties to the KIC LE and/or KIC Partners
in accordance with Article 19 of the FPA**

Full official name of the linked third party	Short name	Status of the entity (Affiliated entity or linked third party)	Nature of affiliation ¹ Or nature of legal link with the third party	Legal form	SME ²	AREA ³	Website (if available)	Official address in full	VAT number	KIC Partner	Eligibility period (start)	Eligibility period (end)

¹ For the definition see Article 2.1(2) Rules for Participation Regulation No 1290/2013: 'affiliated entity' means any legal entity that is:

- under the direct or indirect control of a participant, or
- under the same direct or indirect control as the participant, or
- directly or indirectly controlling a participant.

'Control' may take any of the following forms:

(a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;

(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:

- (a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
- (b) the legal entities concerned are owned or supervised by the same public body.

'Third party with a legal link to a beneficiary' is any legal entity which has a legal link to the beneficiary implying collaboration that is not limited to the action.

² Please refer to the definition of the EC: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

³ Either "Business", "Cities, Regions, NGOs", "Research", "Higher Education"

MODEL FOR THE CERTIFICATE ON THE METHODOLOGY

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TERMS OF REFERENCE FOR AN AUDIT ENGAGEMENT FOR A METHODOLOGY CERTIFICATE IN CONNECTION WITH ONE OR MORE GRANT AGREEMENTS FINANCED UNDER THE HORIZON 2020 RESEARCH AND INNOVATION FRAMEWORK PROGRAMME 2

INDEPENDENT REPORT OF FACTUAL FINDINGS ON THE METHODOLOGY CONCERNING GRANT AGREEMENTS FINANCED UNDER THE HORIZON 2020 RESEARCH AND INNOVATION FRAMEWORK PROGRAMME 6

Terms of reference for an audit engagement for a methodology certificate in connection with one or more grant agreements financed under the Horizon 2020 Research and Innovation Framework Programme

This document sets out the 'Terms of Reference (ToR)' under which

[OPTION 1: [insert name of the partner] ('the Partner')] [OPTION 2: [insert name of the linked third party] ('the Linked Third Party'), third party linked to the Partner [insert name of the partner] ('the Partner')]

agrees to engage

[insert legal name of the auditor] ('the Auditor')

to produce an independent report of factual findings ('the Report') concerning the [Partner's] [Linked Third Party's] usual accounting practices for calculating and claiming direct personnel costs declared as unit costs ('the Methodology') in connection with grant agreements financed under the Horizon 2020 Research and Innovation Framework Programme.

The procedures to be carried out for the assessment of the methodology will be based on the grant agreement(s) detailed below:

[title and number of the grant agreement(s)] ('the Agreement(s)')

The Agreement(s) has(have) been concluded between the KIC LE on behalf of the Partner *and the EIT*.

The *EIT* is mentioned as a signatory of the Agreement with the KIC LE on behalf of the Partner only. The *European Union* is not a party to this engagement.

1.1 Subject of the engagement

According to Article 24 of the Framework Partnership Agreement, partners [and linked third parties] that declare direct personnel costs as unit costs calculated in accordance with their usual cost accounting practices may submit to the *EIT*, for approval, a certificate on the methodology ('CoMUC') stating that there are adequate records and documentation to prove that their cost accounting practices used comply with the conditions set out in Point A of Article 5.2 of the Specific Agreement.

The subject of this engagement is the CoMUC which is composed of two separate documents:

- the Terms of Reference ('the ToR') to be signed by the [Partner] [Linked Third Party] and the Auditor;
- the Auditor's Independent Report of Factual Findings ('the Report') issued on the Auditor's letterhead, dated, stamped and signed by the Auditor which includes; the standard statements ('the Statements') evaluated and signed by the [Partner] [Linked Third Party], the agreed-upon procedures ('the Procedures') performed by the Auditor and the standard factual findings ('the Findings') assessed by the Auditor. The Statements, Procedures and Findings are summarised in the table that forms part of the Report.

The information provided through the Statements, the Procedures and the Findings will enable the EIT to draw conclusions regarding the existence of the *[Partner's] [Linked Third Party's]* usual cost accounting practice and its suitability to ensure that direct personnel costs claimed on that basis comply with the provisions of the Agreement. The EIT draws its own conclusions from the Report and any additional information it may require.

1.2 Responsibilities

The parties to this agreement are the *[Partner] [Linked Third Party]* and the Auditor.

The *[Partner] [Linked Third Party]*:

- is responsible for preparing financial statements for the Agreement(s) ('the Financial Statements') in compliance with those Agreements;
- is responsible for providing the Financial Statement(s) to the Auditor and enabling the Auditor to reconcile them with the *[Partner's] [Linked Third Party's]* accounting and bookkeeping system and the underlying accounts and records. The Financial Statement(s) will be used as a basis for the procedures which the Auditor will carry out under this ToR;
- is responsible for its Methodology and liable for the accuracy of the Financial Statement(s);
- is responsible for endorsing or refuting the Statements indicated under the heading 'Statements to be made by the Partner / Linked Third Party' in the first column of the table that forms part of the Report;
- must provide the Auditor with a signed and dated representation letter;
- accepts that the ability of the Auditor to carry out the Procedures effectively depends upon the *[Partner] [Linked Third Party]* providing full and free access to the *[Partner] [Linked Third Party's]* staff and to its accounting and other relevant records.

The Auditor:

- *[Option 1 by default: is qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC or similar national regulations].*
- *[Option 2 if the Partner or Linked Third Party has an independent Public Officer: is a competent and independent Public Officer for which the relevant national authorities have established the legal capacity to audit the Partner].*
- *[Option 3 if the Partner or Linked Third Party is an international organisation: is an [internal] [external] auditor in accordance with the internal financial regulations and procedures of the international organisation].*

The Auditor:

- must be independent from the Partner *[and the Linked Third Party]*, in particular, it must not have been involved in preparing the Partner's *[and Linked Third Party's]* Financial Statement(s);
- must plan work so that the Procedures may be carried out and the Findings may be assessed;
- must adhere to the Procedures laid down and the compulsory report format;

- must carry out the engagement in accordance with these ToR;
- must document matters which are important to support the Report;
- must base its Report on the evidence gathered;
- must submit the Report to the *[Partner]* *[Linked Third Party]*.

The EIT sets out the Procedures to be carried out and the Findings to be endorsed by the Auditor. The Auditor is not responsible for their suitability or pertinence. As this engagement is not an assurance engagement the Auditor does not provide an audit opinion or a statement of assurance.

1.3 Applicable Standards

The Auditor must comply with these Terms of Reference and with¹:

- the International Standard on Related Services ('ISRS') 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as issued by the International Auditing and Assurance Standards Board (IAASB);
- the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA). Although ISRS 4400 states that independence is not a requirement for engagements to carry out agreed-upon procedures, the EIT requires that the Auditor also complies with the Code's independence requirements.

The Auditor's Report must state that there was no conflict of interests in establishing this Report between the Auditor and the Partner *[and the Linked Third Party]* that could have a bearing on the Report, and must specify – if the service is invoiced - the total fee paid to the Auditor for providing the Report.

1.4 Reporting

The Report must be written in the language of the Agreement (see Article 20.7 of the Agreement).

Under Article 28 of the Framework Partnership Agreement, the Commission, *the EIT*, the European Anti-Fraud Office and the Court of Auditors have the right to audit any work that is carried out under the action and for which costs are claimed from *the European Union*. This includes work related to this engagement. The Auditor must provide access to all working papers related to this assignment if the Commission, *the EIT*, the European Anti-Fraud Office or the European Court of Auditors requests them.

1.5 Timing

The Report must be provided by [dd Month yyyy].

1.6 Other Terms

¹ Supreme Audit Institutions applying INTOSAI-standards may carry out the Procedures according to the corresponding International Standards of Supreme Audit Institutions and code of ethics issued by INTOSAI instead of the International Standard on Related Services ('ISRS') 4400 and the Code of Ethics for Professional Accountants issued by the IAASB and the IESBA.

Annex 6 - FPA NUMBER [insert number] — [insert acronym]

Specific Grant Agreement No. EIT/ KIC/SGA20XX/X

[The [Partner] [Linked Third Party] and the Auditor can use this section to agree other specific terms, such as the Auditor's fees, liability, applicable law, etc. Those specific terms must not contradict the terms specified above.]

[legal name of the Auditor]

[name & title of authorised representative]

[dd Month yyyy]

Signature of the Auditor

[legal name of the [Partner] [Linked Third
Party]]

[name & title of authorised representative]

[dd Month yyyy]

Signature of the [Partner][Linked Third Party]

MODEL

Independent report of factual findings on the methodology concerning grant agreements financed under the Horizon 2020 Research and Innovation Framework Programme

(To be printed on letterhead paper of the auditor)

To
[name of contact person(s)], [Position]
[[Partner's] [Linked Third Party's] name]
[Address]
[dd Month yyyy]

Dear [Name of contact person(s)],

As agreed under the terms of reference dated [dd Month yyyy]

with [OPTION 1: [insert name of the Partner] ('the Partner')] [OPTION 2: [insert name of the linked third party] ('the Linked Third Party'), third party linked to the Partner [insert name of the Partner] ('the Partner)],

we

[name of the auditor] ('the Auditor'),
established at
[full address/city/state/province/country],
represented by
[name and function of an authorised representative],

have carried out the agreed-upon procedures ('the Procedures') and provide hereby our Independent Report of Factual Findings ('the Report'), concerning the [Partner's] [Linked Third Party's] usual accounting practices for calculating and declaring direct personnel costs declared as unit costs ('the Methodology').

You requested certain procedures to be carried out in connection with the grant(s)

[title and number of the grant agreement(s)] ('the Agreement(s)').

The Report

Our engagement was carried out in accordance with the terms of reference ('the ToR') appended to this Report. The Report includes: the standard statements ('the Statements') made by the [Partner] [Linked Third Party], the agreed-upon procedures ('the Procedures') carried out and the standard factual findings ('the Findings') confirmed by us.

The engagement involved carrying out the Procedures and assessing the Findings and the documentation requested appended to this Report, the results of which the EIT uses to draw conclusions regarding the acceptability of the Methodology applied by the [Partner] [Linked Third Party].

The Report covers the methodology used from [dd Month yyyy]. In the event that the [Partner] [Linked Third Party] changes this methodology, the Report will not be applicable to any Financial Statement² submitted thereafter.

The scope of the Procedures and the definition of the standard statements and findings were determined solely by the EIT. Therefore, the Auditor is not responsible for their suitability or pertinence.

Since the Procedures carried out constitute neither an audit nor a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not give a statement of assurance on the costs declared on the basis of the [Partner's] [Linked Third Party's] Methodology. Had we carried out additional procedures or had we performed an audit or review in accordance with these standards, other matters might have come to its attention and would have been included in the Report.

Exceptions

Apart from the exceptions listed below, the [Partner] [Linked Third Party] agreed with the standard Statements and provided the Auditor all the documentation and accounting information needed by the Auditor to carry out the requested Procedures and corroborate the standard Findings.

List here any exception and add any information on the cause and possible consequences of each exception, if known. If the exception is quantifiable, also indicate the corresponding amount.

.....

Explanation of possible exceptions in the form of examples (to be removed from the Report):

- i. the [Partner] [Linked Third Party] did not agree with the standard Statement number ... because...;*
- ii. the Auditor could not carry out the procedure ... established because (e.g. due to the inability to reconcile key information or the unavailability or inconsistency of data);*
- iii. the Auditor could not confirm or corroborate the standard Finding number ... because ...*

Remarks

We would like to add the following remarks relevant for the proper understanding of the Methodology applied by the [Partner] [Linked Third Party] or the results reported.

Example (to be removed from the Report):

Regarding the methodology applied to calculate hourly rates ...

Regarding standard Finding 15 it has to be noted that ...

The [Partner] [Linked Third Party] explained the deviation from the benchmark statement XXIV concerning time recording for personnel with no exclusive dedication to the action in the following manner: ...

...

² Financial Statement in this context refers solely to Annex 3 of the Specific Agreement by which the Partner declares costs under the Agreement.

Annexes

Please provide the following documents to the auditor and annex them to the report when submitting this CoMUC to the EIT:

1. Brief description of the methodology for calculating personnel costs, productive hours and hourly rates;
2. Brief description of the time recording system in place;
3. An example of the time records used by the [Partner] [Linked Third Party];
4. Description of any budgeted or estimated elements applied together with an explanation as to why they are relevant for calculating the personnel costs and how they are based on objective and verifiable information;
5. A summary sheet with the hourly rate for direct personnel declared by the [Partner] [Linked Third Party] and recalculated by the Auditor for each staff member included in the sample (the names do not need to be reported);
6. A comparative table summarising for each person selected in the sample a) the time claimed by the [Partner] [Linked Third Party] in the Financial Statement(s) and b) the time according to the time record verified by the Auditor;
7. A copy of the letter of representation provided to the Auditor.

Use of this Report

This Report has been drawn up solely for the purpose given under Point 1.1 Reasons for the engagement.

The Report:

- is confidential and is intended to be submitted to the EIT by the [Partner] [Linked Third Party] in connection with Article 24 of the Framework Partnership Agreement;
- may not be used by the [Partner] [Linked Third Party] or by the EIT for any other purpose, nor distributed to any other parties;
- may be disclosed by the EIT only to authorised parties, in particular the European Anti-Fraud Office (OLAF) and the European Court of Auditors.
- relates only to the usual cost accounting practices specified above and does not constitute a report on the Financial Statements of the [Partner] [Linked Third Party].

No conflict of interest³ exists between the Auditor and the Partner [and the Linked Third Party] that could have a bearing on the Report. The total fee paid to the Auditor for producing the Report was EUR [] (including EUR [] of deductible VAT).

³ A conflict of interest arises when the Auditor's objectivity to establish the certificate is compromised in fact or in appearance when the Auditor for instance:

- was involved in the preparation of the Financial Statements;
- stands to benefit directly should the certificate be accepted;
- has a close relationship with any person representing the Partner;
- is a director, trustee or partner of the Partner; or
- is in any other situation that compromises his or her independence or ability to establish the certificate impartially.

Annex 6 - FPA NUMBER [insert number] – [insert acronym]

Specific Grant Agreement No. EIT/ KIC/SGA20XX/X

We look forward to discussing our Report with you and would be pleased to provide any further information or assistance which may be required.

Yours sincerely

[legal name of the Auditor]

[name and title of the authorised representative]

[dd Month yyyy]

Signature of the Auditor

MODEL

Statements to be made by the Partner/Linked Third Party ('the Statements') and Procedures to be carried out by the Auditor ('the Procedures') and standard factual findings ('the Findings') to be confirmed by the Auditor

The EIT reserves the right to provide the auditor with guidance regarding the Statements to be made, the Procedures to be carried out or the Findings to be ascertained and the way in which to present them. The EIT reserves the right to vary the Statements, Procedures or Findings by written notification to the Partner/Linked Third Party to adapt the procedures to changes in the grant agreement(s) or to any other circumstances.

If this methodology certificate relates to the Linked Third Party's usual accounting practices for calculating and claiming direct personnel costs declared as unit costs any reference here below to 'the Partner' is to be considered as a reference to 'the Linked Third Party'.

<i>Please explain any discrepancies in the body of the Report.</i>	
Statements to be made by Partner	Procedures to be carried out and Findings to be confirmed by the Auditor
<p>A. Use of the Methodology</p> <p>I. The cost accounting practice described below has been in use since [dd Month yyyy].</p> <p>II. The next planned alteration to the methodology used by the Partner will be from [dd Month yyyy].</p>	<p>Procedure:</p> <p>✓ The Auditor checked these dates against the documentation the Partner has provided.</p> <p>Factual finding:</p> <p>1. The dates provided by the Partner were consistent with the documentation.</p>
<p>B. Description of the Methodology</p> <p>III. The methodology to calculate unit costs is being used in a consistent manner and is reflected in the relevant procedures.</p> <p><i>[Please describe the methodology your entity uses to calculate <u>personnel</u> costs, productive hours and hourly rates, present your description to the Auditor and annex it to this certificate]</i></p> <p><i>[If the statement of section "B. Description of the methodology" cannot be endorsed by the Partner or there is no written methodology to calculate unit costs it should be listed here below and reported as exception by the Auditor in the main Report of Factual Findings:</i></p> <p>- ...]</p>	<p>Procedure:</p> <p>✓ The Auditor reviewed the description, the relevant manuals and/or internal guidance documents describing the methodology.</p> <p>Factual finding:</p> <p>2. The brief description was consistent with the relevant manuals, internal guidance and/or other documentary evidence the Auditor has reviewed.</p> <p>3. The methodology was generally applied by the Partner as part of its usual costs accounting practices.</p>
<p>C. Personnel costs</p> <p><u>General</u></p> <p>IV. The unit costs (hourly rates) are limited to</p>	<p>Procedure:</p> <p><i>The Auditor draws a sample of employees to carry out the procedures indicated in this section</i></p>

Please explain any discrepancies in the body of the Report.	
Statements to be made by Partner	Procedures to be carried out and Findings to be confirmed by the Auditor
<p>salaries including during parental leave, social security contributions, taxes and other costs included in the remuneration required under national law and the employment contract or equivalent appointing act;</p> <p>V. Employees are hired directly by the Partner in accordance with national law, and work under its sole supervision and responsibility;</p> <p>VI. The Partner remunerates its employees in accordance with its usual practices. This means that personnel costs are charged in line with the Partner's usual payroll policy (e.g. salary policy, overtime policy, variable pay) and no special conditions exist for employees assigned to tasks relating to the European Union or Euratom, unless explicitly provided for in the grant agreement(s);</p> <p>VII. The Partner allocates its employees to the relevant group/category/cost centre for the purpose of the unit cost calculation in line with the usual cost accounting practice;</p> <p>VIII. Personnel costs are based on the payroll system and accounting system.</p> <p>IX. Any exceptional adjustments of actual personnel costs resulted from relevant budgeted or estimated elements and were based on objective and verifiable information. <i>[Please describe the 'budgeted or estimated elements' and their relevance to personnel costs, and explain how they were reasonable and based on objective and verifiable information, present your explanation to the Auditor and annex it to this certificate].</i></p> <p>X. Personnel costs claimed do not contain any of the following ineligible costs: costs related to return on capital; debt and debt service charges; provisions for future losses or debts; interest owed; doubtful debts; currency exchange losses; bank costs charged by the Partner's bank for</p>	<p><i>C and the following sections D to F.</i></p> <p><i>[The Auditor has drawn a random sample of 10 full-time equivalents made up of employees assigned to the action(s). If fewer than 10 full-time equivalents are assigned to the action(s), the Auditor has selected a sample of 10 full-time equivalents consisting of all employees assigned to the action(s), complemented by other employees irrespective of their assignments.].</i> For this sample:</p> <ul style="list-style-type: none"> ✓ the Auditor reviewed all documents relating to personnel costs such as employment contracts, payslips, payroll policy (e.g. salary policy, overtime policy, variable pay policy), accounting and payroll records, applicable national tax, labour and social security law and any other documents corroborating the personnel costs claimed; ✓ in particular, the Auditor reviewed the employment contracts of the employees in the sample to verify that: <ul style="list-style-type: none"> i. they were employed directly by the Partner in accordance with applicable national legislation; ii. they were working under the sole technical supervision and responsibility of the latter; iii. they were remunerated in accordance with the Partner's usual practices; iv. they were allocated to the correct group/category/cost centre for the purposes of calculating the unit cost in line with the Partner's usual cost accounting practices; ✓ the Auditor verified that any ineligible items or any costs claimed under other costs categories or costs covered by other types of grant or by other grants financed from the European Union budget have not been taken into account when calculating the personnel

<i>Please explain any discrepancies in the body of the Report.</i>	
Statements to be made by Partner	Procedures to be carried out and Findings to be confirmed by the Auditor
<p>transfers from the EIT; excessive or reckless expenditure; deductible VAT or costs incurred during suspension of the implementation of the action.</p> <p>XI. Personnel costs were not declared under another EU or Euratom grant (including grants awarded by a Member State and financed by the EU budget and grants awarded by bodies other than the EIT for the purpose of implementing the EU budget).</p> <p><u>If additional remuneration as referred to in the grant agreement(s) is paid</u></p> <p>XII. The Partner is a non-profit legal entity;</p> <p>XIII. The additional remuneration is part of the Partner's usual remuneration practices and paid consistently whenever the relevant work or expertise is required;</p> <p>XIV. The criteria used to calculate the additional remuneration are objective and generally applied regardless of the source of funding;</p> <p>XV. The additional remuneration included in the personnel costs used to calculate the hourly rates for the grant agreement(s) is capped at EUR 8 000 per full-time equivalent (reduced proportionately if the employee is not assigned exclusively to the action).</p> <p><i>[If certain statement(s) of section "C. Personnel costs" cannot be endorsed by the Partner they should be listed here below and reported as exception by the Auditor in the main Report of Factual Findings: - ...]</i></p>	<p>costs;</p> <ul style="list-style-type: none"> ✓ the Auditor numerically reconciled the total amount of personnel costs used to calculate the unit cost with the total amount of personnel costs recorded in the statutory accounts and the payroll system. ✓ to the extent that actual personnel costs were adjusted on the basis of budgeted or estimated elements, the Auditor carefully examined those elements and checked the information source to confirm that they correspond to objective and verifiable information; ✓ if additional remuneration has been claimed, the Auditor verified that the Partner was a non-profit legal entity, that the amount was capped at EUR 8 000 per full-time equivalent and that it was reduced proportionately for employees not assigned exclusively to the action(s). ✓ the Auditor recalculated the personnel costs for the employees in the sample. <p>Factual finding:</p> <ol style="list-style-type: none"> 4. All the components of the remuneration that have been claimed as personnel costs are supported by underlying documentation. 5. The employees in the sample were employed directly by the Partner in accordance with applicable national law and were working under its sole supervision and responsibility. 6. Their employment contracts were in line with the Partner's usual policy; 7. Personnel costs were duly documented and consisted solely of salaries, social security contributions (pension contributions, health insurance, unemployment fund contributions, etc.), taxes and other statutory costs

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	<p>included in the remuneration (holiday pay, thirteenth month's pay, etc.);</p> <p>8. The totals used to calculate the personnel unit costs are consistent with those registered in the payroll and accounting records;</p> <p>9. To the extent that actual personnel costs were adjusted on the basis of budgeted or estimated elements, those elements were relevant for calculating the personnel costs and correspond to objective and verifiable information. The budgeted or estimated elements used are: — (indicate the elements and their values).</p> <p>10. Personnel costs contained no ineligible elements;</p> <p>11. Specific conditions for eligibility were fulfilled when additional remuneration was paid: a) the Partner is registered in the grant agreements as a non-profit legal entity; b) it was paid according to objective criteria generally applied regardless of the source of funding used and c) remuneration was capped at EUR 8000 per full-time equivalent (or up to up to the equivalent pro-rata amount if the person did not work on the action full-time during the year or did not work exclusively on the action).</p>
<p>D. Productive hours</p> <p>XVI. The number of productive hours per full-time employee applied is <i>[delete as appropriate]</i>:</p> <p>A. 1720 productive hours per year for a person working full-time (corresponding pro-rata for persons not working full time).</p> <p>B. the total number of hours worked in the year by a person for the Partner</p> <p>C. the standard number of annual hours generally applied by the Partner for</p>	<p>Procedure (same sample basis as for Section C: Personnel costs):</p> <ul style="list-style-type: none"> ✓ The Auditor verified that the number of productive hours applied is in accordance with method A, B or C. ✓ The Auditor checked that the number of productive hours per full-time employee is correct and that it is reduced proportionately for employees not exclusively assigned to the action(s). ✓ If method B is applied the Auditor verified i) the manner in which the total

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<p>its personnel in accordance with its usual cost accounting practices. This number must be at least 90% of the standard annual workable hours.</p> <p><u>If method B is applied</u></p> <p>XVII. The calculation of the total number of hours worked was done as follows: annual workable hours of the person according to the employment contract, applicable labour agreement or national law plus overtime worked minus absences (such as sick leave and special leave).</p> <p>XVIII. 'Annual workable hours' are hours during which the personnel must be working, at the employer's disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation.</p> <p>XIX. The contract (applicable collective labour agreement or national working time legislation) do specify the working time enabling to calculate the annual workable hours.</p> <p><u>If method C is applied</u></p> <p>XX. The standard number of productive hours per year is that of a full-time equivalent; for employees not assigned exclusively to the action(s) this number is reduced proportionately.</p> <p>XXI. The number of productive hours per year on which the hourly rate is based i) corresponds to the Partner's usual accounting practices; ii) is at least 90% of the standard number of workable (working) hours per year.</p> <p>XXII. Standard workable (working) hours are hours during which personnel are at the Partner's disposal performing the duties described in the relevant employment contract, collective labour agreement or national labour legislation. The number of</p>	<p>number of hours worked was done and ii) that the contract specified the annual workable hours by inspecting all the relevant documents, national legislation, labour agreements and contracts.</p> <p>✓ If method C is applied the Auditor reviewed the manner in which the standard number of working hours per year has been calculated by inspecting all the relevant documents, national legislation, labour agreements and contracts and verified that the number of productive hours per year used for these calculations was at least 90% of the standard number of working hours per year.</p> <p>Factual finding:</p> <p><u>General</u></p> <p>12. The Partner applied a number of productive hours consistent with method A, B or C detailed in the left-hand column.</p> <p>13. The number of productive hours per year per full-time employee was accurate and was proportionately reduced for employees not working full-time or exclusively for the action.</p> <p><u>If method B is applied</u></p> <p>14. The number of 'annual workable hours', overtime and absences was verifiable based on the documents provided by the Partner and the calculation of the total number of hours worked was accurate.</p> <p>15. The contract specified the working time enabling to calculate the annual workable hours.</p> <p><u>If method C is applied</u></p> <p>16. The calculation of the number of productive hours per year corresponded to the usual costs accounting practice of</p>

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<p>standard annual workable (working) hours that the Partner claims is supported by labour contracts, national legislation and other documentary evidence.</p> <p><i>[If certain statement(s) of section "D. Productive hours" cannot be endorsed by the Partner they should be listed here below and reported as exception by the Auditor: - ...]</i></p>	<p>the Partner.</p> <p>17. The calculation of the standard number of workable (working) hours per year was corroborated by the documents presented by the Partner.</p> <p>18. The number of productive hours per year used for the calculation of the hourly rate was at least 90% of the number of workable (working) hours per year.</p>
<p>E. Hourly rates</p> <p>The hourly rates are correct because:</p> <p>XXIII. Hourly rates are correctly calculated since they result from dividing annual personnel costs by the productive hours of a given year and group (e.g. staff category or department or cost centre depending on the methodology applied) and they are in line with the statements made in section C. and D. above.</p> <p><i>[If the statement of section 'E. Hourly rates' cannot be endorsed by the Partner they should be listed here below and reported as exception by the Auditor: - ...]</i></p>	<p>Procedure</p> <ul style="list-style-type: none"> ✓ The Auditor has obtained a list of all personnel rates calculated by the Partner in accordance with the methodology used. ✓ The Auditor has obtained a list of all the relevant employees, based on which the personnel rate(s) are calculated. <p>For 10 full-time equivalent employees selected at random (same sample basis as Section C: Personnel costs):</p> <ul style="list-style-type: none"> ✓ The Auditor recalculated the hourly rates. ✓ The Auditor verified that the methodology applied corresponds to the usual accounting practices of the organisation and is applied consistently for all activities of the organisation on the basis of objective criteria irrespective of the source of funding. <p>Factual finding:</p> <p>19. No differences arose from the recalculation of the hourly rate for the employees included in the sample.</p>
<p>F. Time recording</p> <p>XXIV. Time recording is in place for all persons with no exclusive dedication to one Horizon 2020 action. At least all hours</p>	<p>Procedure</p> <ul style="list-style-type: none"> ✓ The Auditor reviewed the brief description, all relevant manuals and/or internal guidance describing the

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<p>worked in connection with the grant agreement(s) are registered on a daily/weekly/monthly basis <i>[delete as appropriate]</i> using a paper/computer-based system <i>[delete as appropriate]</i>;</p> <p>XXV. For persons exclusively assigned to one Horizon 2020 activity the Partner has either signed a declaration to that effect or has put arrangements in place to record their working time;</p> <p>XXVI. Records of time worked have been signed by the person concerned (on paper or electronically) and approved by the action manager or line manager at least monthly;</p> <p>XXVII. Measures are in place to prevent staff from:</p> <ol style="list-style-type: none"> i. recording the same hours twice, ii. recording working hours during absence periods (e.g. holidays, sick leave), iii. recording more than the number of productive hours per year used to calculate the hourly rates, and iv. recording hours worked outside the action period. <p>XXVIII. No working time was recorded outside the action period;</p> <p>XXIX. No more hours were claimed than the productive hours used to calculate the hourly personnel rates.</p> <p><i>[Please provide a brief description of the <u>time recording system</u> in place together with the measures applied to ensure its reliability to the Auditor and annex it to the present certificate⁴].</i></p>	<p>methodology used to record time.</p> <p>The Auditor reviewed the time records of the random sample of 10 full-time equivalents referred to under Section C: Personnel costs, and verified in particular:</p> <ul style="list-style-type: none"> ✓ that time records were available for all persons with not exclusive assignment to the action; ✓ that time records were available for persons working exclusively for a Horizon 2020 action, or, alternatively, that a declaration signed by the Partner was available for them certifying that they were working exclusively for a Horizon 2020 action; ✓ that time records were signed and approved in due time and that all minimum requirements were fulfilled; ✓ that the persons worked for the action in the periods claimed; ✓ that no more hours were claimed than the productive hours used to calculate the hourly personnel rates; ✓ that internal controls were in place to prevent that time is recorded twice, during absences for holidays or sick leave; that more hours are claimed per person per year for Horizon 2020 actions than the number of productive hours per year used to calculate the hourly rates; that working time is recorded outside the action period; ✓ the Auditor cross-checked the information with human-resources records to verify consistency and to

⁴ The description of the time recording system must state among others information on the content of the time records, its coverage (full or action time-recording, for all personnel or only for personnel involved in H2020 actions), its degree of detail (whether there is a reference to the particular tasks accomplished), its form, periodicity of the time registration and authorisation (paper or a computer-based system; on a daily, weekly or monthly basis; signed and countersigned by whom), controls applied to prevent double-charging of time or

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<p><i>[If certain statement(s) of section “F. Time recording” cannot be endorsed by the Partner they should be listed here below and reported as exception by the Auditor:</i></p> <p>- ...]</p>	<p>ensure that the internal controls have been effective. In addition, the Auditor has verified that no more hours were charged to Horizon 2020 actions per person per year than the number of productive hours per year used to calculate the hourly rates, and verified that no time worked outside the action period was charged to the action.</p> <p>Factual finding:</p> <ol style="list-style-type: none"> 20. The brief description, manuals and/or internal guidance on time recording provided by the Partner were consistent with management reports/records and other documents reviewed and were generally applied by the Partner to produce the financial statements. 21. For the random sample time was recorded or, in the case of employees working exclusively for the action, either a signed declaration or time records were available; 22. For the random sample the time records were signed by the employee and the action manager/line manager, at least monthly. 23. Working time claimed for the action occurred in the periods claimed; 24. No more hours were claimed than the number productive hours used to calculate the hourly personnel rates; 25. There is proof that the Partner has checked that working time has not been claimed twice, that it is consistent with absence records and the number of productive hours per year, and that no working time has been claimed outside the action period. 26. Working time claimed is consistent with that on record at the human-resources

ensure consistency with HR-records such as absences and travels as well as it information flow up to its use for the preparation of the Financial Statements.

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	department.

[official name of the [Partner] [Linked Third Party]]
[name and title of authorised representative]
[dd Month yyyy]
 <Signature of the [Partner] [Linked Third Party]>

[official name of the Auditor]
[name and title of authorised representative]
[dd Month yyyy]
 <Signature of the Auditor>

SIGNATURE

For the KIC Partner/new KIC Partner/new KIC LE:
 [function/forename/surname]
 [signature]
 Done in [English] at [place] on [date]