

**ANNEX to the Commission Decision accepting derogations requested by the Clean Sky Joint Undertaking to Regulation (EC, Euratom) No 2343/2002**

**AMENDMENT TO THE FINANCIAL RULES OF THE CLEAN SKY JOINT UNDERTAKING**

THE GOVERNING BOARD OF THE CLEAN SKY JOINT UNDERTAKING,

Having regard to Council Regulation (EC) N° 71/2007 of 20 December 2008 on the establishment of the Clean Sky Joint Undertaking <sup>1</sup> (hereinafter the "Clean Sky Joint Undertaking") and in particular Article 6 thereof;

Having regard to the Statutes annexed to the Council Regulation (EC) N° 71/2008 of 20 December 2007 (hereinafter "the Statutes"), and in particular Article 6(6)(c) thereof;

Having regard to Council Regulation (EC, Euratom) N° 1605/2002, on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup> (hereinafter "the general Financial Regulation"), and in particular Article 185 (1) thereof;

Having regard to Commission Regulation (EC, Euratom) N° 2343/2002, on the framework Financial Regulation for the bodies referred to in Article 185 of the general Financial Regulation<sup>3</sup> (hereinafter "the framework Financial Regulation");

Having regard to the Commission Decision accepting the derogations requested by the Clean Sky Joint Undertaking to Regulation (EC, Euratom) No 2343/2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002<sup>4</sup>;

Whereas:

(1) According to its Article 1, the Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (hereafter FP7 Rules for Participation)<sup>5</sup> does not apply to the Clean Sky Joint Undertaking. Following the adoption of

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<sup>1</sup> OJ L 30, 04.02.2008, p. 1

<sup>2</sup> OJ L 248, 16.09.2002, p. 1

<sup>3</sup> OJ L 357, 31.12.2002, p. 72

<sup>4</sup> C(2008)3921 of 23 July 2008

<sup>5</sup> OJ L 391, 30.12.2006, p. 1.

the Clean Sky Financial Rules by the Governing Board on 23 July 2008, further amendments have become necessary in order to harmonize the treatment between the participants in the research activities of the Clean Sky Joint Undertaking and those of the indirect actions of the Seventh Framework Programme.

(2) The revised draft Article 94(2) clarifies that the flat rate of 20 % is for coverage of the beneficiary's indirect costs to which the usual reimbursement rate applies (usually 50%) and that the beneficiary's direct eligible costs for subcontracting are excluded in accordance with Article 32(4) of the FP7 Rules for Participation.

(3) Article 99(2) of the draft Financial Rules defines the eligible costs in accordance with Article 31(3) of the FP7 Rules for Participation.

HAS ADOPTED THIS DECISION:

### *Article 1*

The Clean Sky Financial Rules are amended as follows:

1. In Article 94, paragraph 2 is replaced by the following:

'2. The Grant Agreements may authorise, in the form of flat rates, coverage of the beneficiary's indirect costs up to a maximum of 20 % of the total eligible direct costs of the action excluding the beneficiary's direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary.'

2. In Article 99, the following paragraph 2 is added:

'2. In order to be considered eligible, costs incurred in the implementation of an action must meet the following conditions:

(a) they must be actual;

(b) they must have been incurred during the duration of the action, with the exception of final reports where provided for in the grant agreement;

(c) they must have been determined in accordance with the usual accounting and management principles and practices of the participant and used for the sole purpose of achieving the objectives of the indirect action and its expected results, in a manner consistent with the principles of economy, efficiency and effectiveness;

(d) they must be recorded in the accounts of the participant and, in the case of any contribution from third parties, they must be recorded in the accounts of the third parties;

(e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, costs related to return on capital, costs declared, incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive

or reckless expenditure, and any other costs that do not meet the conditions laid down in points (a) to (d).

For the purposes of point (a), the grant agreement may authorise the use of average personnel costs if they are consistent with the management principles and accounting practices of the participant and do not differ significantly from actual costs.'

*Article 2*

This Decision shall enter into force on the day following its adoption by the Governing Board of the Clean Sky Joint Undertaking.