



**COMMON PROVISIONS**  
**2012**

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## COMMON PROVISIONS

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### PART I - Legal and Administrative Provisions

#### Article 1 - References

All LIFE+ projects shall be carried out in accordance with, in order of precedence: Regulation (EC) No 614/2007 of the European Parliament and of the Council of 23 May 2007 (LIFE+)<sup>1</sup>,

The special provisions of the grant agreement,

These common provisions, which form an integral part of the grant agreement.

The description of the project (hereinafter referred to as "the project") set out in Annex I and the other Annexes, which form an integral part of the grant agreement.

#### Article 2 - Responsible Commission service and correspondence

2.1 For the purposes of implementation of the provisions set out below, the Commission shall be represented by the Directorate-General for the Environment in the persons of its authorising officer or authorising officer by sub-delegation.

2.2 All correspondence must bear the identification number and project title and must be sent to the following address:

LIFE + projects on Nature & Biodiversity, LIFE + projects on Information and Communication dealing with Nature and Biodiversity issues:

**European Commission  
Directorate-General Environment  
Unit ENV.E.3 - BU-9 3/51  
B - 1049 Brussels**

LIFE + projects on Environment Policy and Governance, LIFE + projects on Information and Communication not dealing with Nature and Biodiversity issues:

**European Commission  
Directorate-General Environment  
Unit ENV.E.4 - BU-9 3/06  
B - 1049 Brussels**

A copy of all correspondence must be sent to the external monitoring team designated by the Commission.

Mail shall be considered to have been received by the Commission on the date on which it is formally registered by the responsible Commission unit referred above.

#### Article 3 - Participants

LIFE+ projects may involve four types of "participants", depending on their roles and obligations:

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<sup>1</sup> OJ L 149, 9.6.2007, p. 1.

- coordinating beneficiary,
- associated beneficiary (ies),
- co-financier(s), and
- subcontractor(s).

#### **Article 4 - Role and obligations of the coordinating beneficiary**

- 4.1 By "coordinating beneficiary" is meant the person or entity that is solely legally and financially responsible to the Commission for the full implementation of the project measures in order to achieve the project objectives and for the dissemination of the project results.
- 4.2 The coordinating beneficiary, through the mandate annexed to the grant agreement, is granted power of attorney by the associated beneficiaries, to act in their name and for their account in signing the grant agreement and its possible subsequent amendments with the Commission.
- 4.3 The coordinating beneficiary accepts all the provisions of the grant agreement with the Commission.
- 4.4 By virtue of the mandate signed, the coordinating beneficiary alone is entitled to receive funds from the Commission and distribute the amounts corresponding to the associated beneficiaries' participation in the project and as specified in the agreements established between the associated beneficiaries as stipulated in Article 4.8.
- 4.5 Whenever an associated beneficiary/co-financier reduces its financial contribution, it shall be incumbent upon the coordinating beneficiary, in agreement with its associated beneficiaries, to find the necessary resources to ensure correct implementation of the project. In no case shall the Commission increase its contribution or the rate of co-financing.
- 4.6 Notwithstanding the provisions in Article 23, the coordinating beneficiary shall contribute financially to the project.
- 4.7 The coordinating beneficiary shall be the single point of contact for the Commission and shall be the only participant to report directly to the Commission on the technical and financial progress of the project. The coordinating beneficiary shall therefore provide to the Commission all the necessary reports, in accordance with Article 12.
- 4.8 The coordinating beneficiary shall conclude with all associated beneficiaries agreements describing their technical and financial participation in the project. Such agreements shall be fully compatible with the grant agreement signed with the Commission, shall make a precise reference to the present common provisions and shall have, as a minimum, the contents described in the Guidelines issued by the Commission. They shall be signed by the coordinating beneficiary and the associated beneficiaries and notified to the Commission within nine months from the starting date of the project. The provisions of the grant agreement, including the mandate (Articles 5.2 and 5.3), shall take precedence over any other agreement between the associated beneficiary and the coordinating beneficiary that may have an effect on the implementation of the above agreement between the coordinating beneficiary and the Commission.

## **Article 5 - Role and obligations of associated beneficiaries**

- 5.1 The associated beneficiaries are exclusively the organisations identified as such in the project and committed to the project implementation through relevant forms. The associated beneficiary shall sign the agreement foreseen in Article 4.8 and be directly involved in the technical implementation of one or more tasks of the project.
- 5.2 The associated beneficiary, through the mandate annexed to the grant agreement, grants power of attorney to the coordinating beneficiary, to act in his name and for his account in signing the grant agreement and its possible subsequent amendments with the Commission. Accordingly, the associated beneficiary mandates the coordinating beneficiary to take full legal responsibility for the implementation of the grant agreement.
- 5.3 The associated beneficiary accepts all the provisions of the grant agreement with the Commission, in particular all provisions affecting the associated beneficiary and the coordinating beneficiary. In particular, he acknowledges that, by virtue of the mandate signed, the coordinating beneficiary alone is entitled to receive funds from the Commission and distribute the amounts corresponding to the associated beneficiary's participation in the action.
- 5.4 The associated beneficiary shall do everything in his power to help the coordinating beneficiary fulfil the coordinating beneficiary's obligations under the grant agreement. In particular, the associated beneficiary hereby shall provide to the co-ordinating beneficiary whatever documents or information (technical and financial) may be required, as soon as possible after receiving the request from the coordinating beneficiary.
- 5.5 Each associated beneficiary must contribute financially to the project and may benefit from the financial contribution from the Commission in the conditions stipulated in the agreement foreseen in Article 4.8.
- 5.6 The associated beneficiaries shall not report directly to the Commission on the technical and financial progress unless explicitly requested to do so by the Commission.

## **Article 6 - Common obligations for both the coordinating beneficiary and the associated beneficiaries**

- 6.1 The coordinating beneficiary and the associated beneficiaries shall maintain up-to-date books of account, in accordance with the normal accounting conventions imposed on them by law and existing regulations. For the sake of traceability of expenditure and income, an analytical accounting system (cost centre accounting) shall be put in place. The coordinating beneficiary and the associated beneficiaries shall retain, throughout the project and for at least five years after the last payment, all appropriate supporting documentation for all expenditure, income and revenue for the project as reported to the Commission, such as tender documents, invoices, purchase orders, proof of payments, salary slips, time sheets and any other documents used for the calculation and presentation of costs. This documentation shall be clear and precise, and shall be submitted to the Commission when requested. The coordinating beneficiary shall retain copies of all supporting documents of all the associated beneficiaries.

- 6.2 The coordinating beneficiary and the associated beneficiaries shall ensure that all invoices include a clear reference to the project, linking them to the analytical accounting system.
- 6.3 The coordinating beneficiary and the associated beneficiaries shall ensure that the Union support is publicised, as detailed in Article 13.
- 6.4 The coordinating beneficiary and the associated beneficiaries shall share freely the know-how necessary for implementation of the project.
- 6.5 The coordinating beneficiary shall not act, in the context of the project, as sub-contractor or supplier to the associated beneficiaries. The associated beneficiaries shall not act, in the context of the project, as sub-contractor or supplier to the coordinating beneficiary or other associated beneficiaries.
- 6.6 For LIFE+ Nature projects and for LIFE+ Biodiversity projects, the coordinating beneficiary and the associated beneficiaries are under the obligation to inform the Commission of any activity by third parties that is likely to have a significant negative impact on the sites/species targeted in the project, and if appropriate to take measures to persuade third parties to refrain from such activities.

#### **Article 7 - Project co-financiers**

- 7.1 Co-financiers shall only contribute financially to the project, shall not be directly involved in the technical implementation of the project and shall not benefit from the Union funding.
- 7.2 The coordinating beneficiary and/or its associated beneficiaries shall conclude with co-financiers any agreements necessary to ensure co-funding, provided these do not infringe the obligations of the coordinating beneficiary and/or associated beneficiaries, as stated in the grant agreement.

#### **Article 8 - Subcontractors**

- 8.1 Where the implementation of the action requires the procurement of services for specific tasks of a fixed duration or a purchase of durable goods, a project may also include subcontractors, who shall not be considered as associated beneficiaries. The beneficiaries shall award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, they shall avoid any conflict of interest.
- 8.2 Subcontractors shall make no financial investment in the project and, therefore, shall not benefit from any intellectual property rights arising directly from the project.
- 8.3 Any public coordinating beneficiary/associated beneficiary must award subcontracts in accordance with the applicable rules on public tendering, in conformity with Union Directives on public tendering procedures.  
  
For contracts exceeding €125 000, any private coordinating beneficiary / associated beneficiary shall invite competitive tenders from potential subcontractors; in doing so, it shall observe the principles of transparency and equal treatment of potential subcontractors.
- 8.4 The beneficiaries shall ensure that

- a) all invoices issued by subcontractors bear a clear reference to the LIFE+ project (i.e. number and title or short title) and to the order/subcontract issued by the beneficiaries;
- b) all invoices issued by subcontractors are sufficiently detailed as to allow identification of single items covered by the service delivered (i.e. clear description and cost of each item);
- c) the conditions applicable to them under Articles 10, 11, 19, and 32 are also applicable to the subcontractors.

#### **Article 9 - Role of external monitoring teams**

- 9.1 To follow up the project, the Commission shall be supported by external monitoring teams. The monitoring teams shall assist by following and assessing the project's progress and its coherence with the incurred costs. They shall act strictly as an advisory body to the Commission. The monitoring teams shall be independent from the projects. The monitoring teams shall verify the project's implementation and provide assessments of the reports submitted to the Commission.
- 9.2 Monitoring teams shall not be authorised to take any decision on behalf of the Commission. A recommendation or a statement provided by the monitoring teams to the coordinating beneficiary or to the associated beneficiaries cannot be interpreted as representing a position of the Commission.
- 9.3 The external monitoring teams shall act under the same confidentiality rules as those established between the participants in the project and the Commission (as stipulated in Article 19).

#### **Article 10 - Civil liability**

- 10.1 The Commission may not, under any circumstances or for any reason whatsoever, be held liable in the event of claims deriving from the grant agreement concerning any damage or injury while the project is being carried out. No claim for compensation or repayment accompanying such a complaint shall be accepted by the Commission.
- 10.2 The coordinating beneficiary shall exonerate the Commission from any liability connected to the relationship with their associated beneficiaries or to the agreements signed with them in this context.
- 10.3 The coordinating beneficiary and associated beneficiaries shall assume sole liability towards third parties, including for damage of any kind sustained by them while the project is being carried out.

#### **Article 11 - Conflict of interest**

- 11.1 The coordinating beneficiary and all associated beneficiaries undertake to take all the necessary measures to prevent any risk of conflicts of interest that could affect the impartial and objective performance of the grant agreement. Such conflicts of interest could arise in particular as a result of economic interest, political or national affinity, family or emotional reasons, or any other shared interest.
- 11.2 Any situation constituting or likely to lead to a conflict of interest during the performance of the grant agreement must be brought to the attention of the Commission, in writing, without delay. The coordinating beneficiary and all

associated beneficiaries shall, without delay, take whatever steps are necessary to rectify this situation. The Commission reserves the right to check that the measures taken are appropriate and may itself take further action if this is deemed necessary.

## **Article 12 - Technical activity reports**

12.1 The coordinating beneficiary must regularly inform the Commission on the progress and on the achievements of the LIFE+ project through the submission of the following reports:

- One inception report, to be delivered within nine months of the project start;
- One final report, to be delivered within three months of the project end;
- For projects with a duration exceeding 24 months and a Union contribution of more than €300 000, one mid-term report, to be delivered, together with the request for mid-term pre-financing, after the threshold defined in Article 28.3 has been reached;
- For projects with a duration exceeding 48 months and a Union contribution of more than €2 000 000, and in case the coordinating beneficiary intends to request two mid-term pre-financing payments according to the provisions contained in the second paragraph of Article 28.3, two mid-term reports, to be delivered, together with the requests for mid-term pre-financing, after the thresholds defined in Article 28.3 have been reached;
- Any progress reports needed to ensure that the delay between consecutive reports does not exceed 18 months.

Exceptionally, if the threshold defined in Article 28.3 is reached within the first nine months of the project duration, the inception report and the mid-term report might be merged into one.

Information concerning the technical and/or financial management of the project can be requested by the Commission at any time.

12.2 The form and contents of the reports shall be in accordance with the Guidelines issued by the Commission.

All reports shall contain the necessary information for the Commission to evaluate the state of implementation of the project, the respect of the work plan, the financial situation of the project and whether the project's objectives have been achieved or are still achievable. Inception, mid-term and final reports shall also contain the information described in the relevant Articles, 12.5, 12.6 and 12.7, respectively.

12.3 All reports shall be simultaneously forwarded, in both paper and electronic formats (CD-ROM/DVD/USB key, not email), to the Commission and to the external monitoring team designated by the Commission, both of them receiving one complete copy of the technical reports, including annexes, and one copy of the financial statement.

12.4 The coordinating beneficiary shall submit a copy of the final report to the Member State authorities. These latter also have the right to ask for a copy of the mid-term report.

12.5 *Inception report*

In addition to the information required in Article 12.2, the inception report shall contain an assessment as to whether the project objectives and work plan are still valid. On the basis of the inception report submitted by the coordinating beneficiary, and if the project's objectives are not achievable or the work plan is not feasible, the Commission may launch a termination procedure, in accordance with Article 18.

#### 12.6 Mid-term report

In addition to the information required in Article 12.2, the mid-term report shall contain a financial statement and sufficient information to allow for a preliminary assessment of the eligibility of costs incurred so far.

#### 12.7 Final report

In addition to the information required in Article 12.2, the final report shall contain a financial statement and all the information necessary for the Commission to evaluate the eligibility of costs incurred and the sustainability in the future of the project results.

### **Article 13 - Communication actions, publicity for Union support and audio-visual products**

13.1 The coordinating beneficiary and associated beneficiaries shall publicise the project and its results, always mentioning the Union support received. Details of this activity shall be given in each activity report.

13.2 The coordinating beneficiary and associated beneficiaries shall acknowledge the support given by the Union in all documents and media produced in the framework of the project, using the LIFE logo provided by the Commission. For audio-visual material, the credits at the beginning and/or at the end shall include an explicit and readable mention to the LIFE financial support (e.g. "With the contribution of the LIFE financial instrument of the European Union").

13.3 The LIFE logo may not be referred to as a certified quality label or eco-label. Its use shall be restricted to dissemination activities.

13.4 The coordinating beneficiary shall create a project website or use an existing website for the dissemination of project activities, progress and results. The web address where the main results of the project are available to the public shall be indicated in the reports. This website shall be online at the latest six months after the start of the project, shall be regularly updated and shall be kept for at least five years after the end of the project.

13.5 The coordinating beneficiary and associated beneficiaries shall erect and maintain notice boards describing the project at the locations where it is implemented, at strategic places accessible and visible to the public. The LIFE logo shall appear on them at all times.

13.6 For LIFE+ Nature projects, the obligations in Article 13.2 and in Article 13.5 also apply for the Natura 2000 logo. The project's importance in terms of establishing the Natura 2000 network must be described in the notice boards.

13.7 A summary of the project, including name and contact information of the coordinating beneficiary, will be placed on the LIFE website and made available to the general public.

- 13.8 All durable goods acquired in the framework of the project shall bear the LIFE logo unless otherwise specified by the Commission.
- 13.9 A project shall contain an obligatory set of measures for networking activities. Unless duly justified by the coordinating beneficiary as inappropriate, these must include visits, meetings, exchange of information, and/or other such networking activities with an appropriate number of other relevant LIFE projects (ongoing or completed). It may also include similar exchanges with other non-LIFE projects and/or participation in information platforms related to the project objectives (including at international level where justified). These networking activities shall aim at ensuring an efficient transfer of know-how and experience in order to foster its replication in similar contexts.
- 13.10 Notwithstanding the provisions of Article 19, the Commission shall be authorised to publish, in whatever form and in whatever medium, including the Internet, all the information related to the project or produced by the project that it considers relevant. The coordinating beneficiary and all associated beneficiaries shall grant the Commission the non-exclusive right to reproduce, to dub if necessary, to distribute or to use any audio-visual document produced by the project, completely or partly, without time limit, for non-commercial purposes, including during public events. Nevertheless, the Commission shall not be considered as “co-producer”. The Commission reserves the right to use the photographs submitted in the various reports referred to in Article 12 to illustrate any information material it produces. It undertakes to credit these by indicating the project reference number.

#### **Article 14 - Spatial data**

Electronic tools, which include spatial data and are produced in the frame of a LIFE+ project, shall comply with the Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Union (INSPIRE)<sup>2</sup>.

#### **Article 15 - Amendments to the grant agreement**

- 15.1 The coordinating beneficiary shall inform the Commission, in the technical reports or by letter, of any changes to the project as detailed in the grant agreement. Changes that would fundamentally alter the overall objectives of the project, that would call into question the grant award decision or that would be contrary to the equal treatment of applicants will not be accepted.
- 15.2 When the changes are substantial, written additional agreement by the Commission must be issued. Substantial changes are:
- Significant changes to the nature or content of actions or deliverables except inasmuch as changes to the content improve the quality or quantity of the results achieved in relation to the foreseen actions and/or deliverables, without modifying their nature;
  - Changes of the legal status of the coordinating beneficiary or of an associated beneficiary;

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<sup>2</sup> OJ L 108, 25.4.2007, p. 1.

- Changes to the project partnership structure;
- Changes to the duration of the project;
- Changes to the provisional project budget, increasing by more than 10 % and €30 000 the costs foreseen in one or more categories of expenditure. These thresholds shall apply to each of the three subcategories of durable goods. They shall not apply to the category of "overheads", for which the limit stipulated in Article 24.14 may not be exceeded.

15.3 In the cases foreseen in Article 15.2 the coordinating beneficiary shall submit a formal request for changes, in accordance with the Guidelines issued by the Commission. The Commission reserves the right to accept or to refuse the request and may decide not to take into consideration any request received later than three months before the end of the project.

#### **Article 16 - Delayed performance**

16.1 The starting date of a project is the date indicated in the special provisions of the grant agreement, irrespective of the dates of signature of the grant agreement or of the payment of the first pre-financing.

16.2 The coordinating beneficiary shall inform the Commission, without delay and with full details, of any event that is liable to obstruct or delay the performance of the project. The parties concerned shall agree on the measures to be taken.

#### **Article 17 - Postponement of the end date**

17.1 A postponement of the end date of a project may be granted only in unforeseeable, exceptional circumstances that make the implementation of one of more project actions impossible for a certain period of time.

17.2 A request for postponement of the end date of a project must be submitted in accordance with the Guidelines issued by the Commission and include sufficient information for the Commission to assess the justification for the delays and the feasibility of a revised work plan. The Commission reserves the right to accept or to refuse the request and may decide not to take into consideration any request received later than three months before the end of the project.

#### **Article 18 - Termination of the grant agreement**

18.1 Termination of the grant agreement by the coordinating beneficiary

In duly justified cases, the coordinating beneficiary, on behalf of all beneficiaries, may terminate the grant agreement by formally notifying the Commission thereof, stating clearly the reasons and specifying the date on which the termination shall take effect. The notification shall be sent before the termination is due to take effect.

If no reasons are given or if the Commission considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinating beneficiary, specifying the grounds thereof, and the grant agreement shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article 18.4.

18.2 Termination of the participation of one or more beneficiaries by the coordinating beneficiary

In duly justified cases, the participation of any one or several beneficiaries in the grant agreement may be terminated by the coordinating beneficiary, acting on request of that beneficiary or those beneficiaries, or on behalf of all the other beneficiaries. When notifying such termination to the Commission, the coordinating beneficiary shall include the reasons for the termination of the participation, the opinion of the beneficiary or beneficiaries the participation of which is terminated, the date on which the termination shall take effect and the proposal of the remaining beneficiaries relating to the reallocation of the tasks of that beneficiary or those beneficiaries or, where relevant, to the nomination of one or more replacements which shall succeed that beneficiary or those beneficiaries in all their rights and obligations under the grant agreement. The notification shall be sent before the termination is due to take effect.

If no reasons are given or if the Commission considers that the reasons exposed cannot justify the termination, it shall formally notify the coordinating beneficiary, specifying the grounds thereof, and the participation shall be deemed to have been terminated improperly, with the consequences set out in the fourth subparagraph of Article 18.4.

Without prejudice to Article 15, an amendment to the grant agreement shall be made, in order to introduce the necessary modifications.

### 18.3 Termination of the grant agreement or the participation of one or more beneficiaries by the Commission

18.3.1 The Commission may decide to terminate the grant agreement or the participation of any one or several beneficiaries participating in the action, in the following circumstances:

- (a) if a change to the beneficiary's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the grant agreement substantially or calls into question the decision to award the grant;
- (b) if, following the termination of the participation of any one or several beneficiaries, the necessary modifications to the grant agreement would call into question the decision awarding the grant or would result in unequal treatment of applicants;
- (c) if the beneficiaries do not implement the action as specified in Annex I of the grant agreement or if a beneficiary fails to comply with another substantial obligation incumbent on it under the terms of the grant agreement;
- (d) if it becomes clear that the project will not achieve its objectives;
- (e) if a beneficiary is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of any other similar proceedings concerning those matters, or is in an analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (f) if a beneficiary or any related person, as defined in the second subparagraph, have been found guilty of professional misconduct proven by any means;

- (g) if a beneficiary is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or in which the action is implemented;
- (h) if the Commission has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- (i) if the Commission has evidence that a beneficiary or any related person, as defined in the second subparagraph, have committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the grant agreement, including in the event of submission of false information or failure to submit required information in order to obtain the grant provided for in the grant agreement; or
- (j) if the Commission has evidence that a beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under other grants funded by the Union or the European Atomic Energy Community which were awarded to that beneficiary under similar conditions, provided that those errors, irregularities, fraud or breach of obligations have a material impact on this grant.

For the purposes of points (f), (h) and (i), "any related person" shall mean any natural person who has the power to represent the beneficiary or to take decisions on its behalf.

18.3.2 Before terminating the grant agreement or the participation of any one or several beneficiaries, the Commission shall formally notify the coordinating beneficiary of its intention to terminate, specifying the reasons thereof and inviting the coordinating beneficiary, within 45 calendar days from receipt of the notification, to submit observations on behalf of all beneficiaries and, in the case of point (c) of Article 18.3.1, to inform the Commission about the measures taken to ensure that the beneficiaries continue to fulfil their obligations under the grant agreement.

If, after examination of the observations submitted by the coordinating beneficiary, the Commission decides to stop the termination procedure, it shall formally notify the coordinating beneficiary thereof.

If no observations have been submitted or if, despite the observations submitted by the coordinating beneficiary, the Commission decides to pursue the termination procedure, it may terminate the grant agreement or the participation of any one or several beneficiaries by formally notifying the coordinating beneficiary thereof, specifying the reasons for the termination.

In the cases referred to in points (a), (b), (c), (d), (e) and (g) of Article 18.3.1, the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (f), (h), (i) and (j) of Article 18.3.1, the termination shall take effect on the day following the date on which the formal notification was received by the coordinating beneficiary.

#### 18.4 Effects of termination

Where the grant agreement is terminated, payments by the Commission shall be limited to the amount determined in accordance with Article 23 on the basis of the eligible costs incurred by the beneficiaries and the actual level of implementation of the action on the date when the termination takes effect. Costs relating to current commitments, which are not due for execution until after the termination, shall not be taken into account. The coordinating beneficiary shall have three months from the date when the termination of the grant agreement takes effect, as provided for in Articles 18.1 and 18.2, to produce a request for final payment in accordance with Article 28.4. If no request for final payment is received within this time limit, the Commission shall not reimburse any costs which are not included in a financial statement approved by it and which are not justified in a technical report approved by it. In accordance with Article 28.11, the Commission shall recover any amount already paid, if its use is not substantiated by the technical reports and, where applicable, by the financial statements approved by the Commission.

Where the participation of an associated beneficiary is terminated, only those costs incurred by the beneficiary concerned up to the date when termination of its participation takes effect shall be reimbursed by the grant. Costs relating to current commitments, which were not due for execution until after the termination, shall not be taken into account. The request for payment for the associated beneficiary concerned shall be included in the next payment request submitted by the coordinating beneficiary.

Where the Commission, in accordance with point (c) of Article 18.3.1, is terminating the grant agreement on the grounds that the coordinating beneficiary has failed to produce the request for payment and if, after a reminder, the coordinating beneficiary has still not complied with this obligation within 60 days, the first subparagraph shall apply, subject to the following:

- (a) there shall be no additional time period from the date when the termination of the grant agreement takes effect for the coordinating beneficiary to produce a request for final payment; and
- (b) the Commission shall not reimburse or cover any costs incurred by the beneficiaries up to the date of termination or up to the end of the implementation period set out in Article 2 of the Special Provisions, whichever is the earlier, which are not included in a financial statement approved by it and which are not justified in a technical report approved by it.

In addition to the first, second and third subparagraphs, where the grant agreement or the participation of a beneficiary is terminated improperly by the coordinating beneficiary within the meaning of Articles 18.1 and 18.2, or where the grant agreement or the participation of a beneficiary is terminated by the Commission on the grounds set out in points (c), (f), (h), (i) and (j) of Article 18.3.1, the Commission may also reduce the grant or recover amounts unduly paid in accordance with Articles 23.5 and 28.11, in proportion to the gravity of the failings in question and after allowing the coordinating beneficiary, and, where relevant, the associated beneficiaries concerned, to submit their observations.

Neither party shall be entitled to claim compensation on account of a termination by the other party.

## **Article 19 - Confidentiality**

The Commission and the coordinating beneficiary/associated beneficiaries undertake to preserve the confidentiality of any document, information or other material communicated to them in confidence, disclosure of which could harm another party. The parties shall remain bound by this obligation for 5 years beyond the closing date of the project. The personal data included in the project will be placed on an electronic management tool, which is made available to the European Commission, to other Union institutions and to an external monitoring team, which are bound by a confidentiality agreement. This management tool is used exclusively to manage LIFE projects.

## **Article 20 - Protection of data**

- 20.1 The coordinating beneficiary has the right to access data and information in possession of the Commission that concern its project, and to request possible corrections.
- 20.2 The Commission, the coordinating beneficiary and the associated beneficiaries will respect 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 Union institutions and bodies and on the free movement of such data<sup>3</sup>.
- 20.3 Notwithstanding the provisions of Article 19, the coordinating beneficiary shall be aware of the obligations set by the Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>4</sup>.

## **Article 21 - Ownership and exploitation of results**

- 21.1 The coordinating beneficiary and/or its associated beneficiaries shall be the owners of documents, possibly patentable or patented inventions and expertise obtained pursuant to the project.
- 21.2 With a view to promoting the use of techniques or models favourable to the environment, the beneficiaries shall ensure that all documents, patents and know-how directly resulting from the project implementation shall be made available in the Union as soon as they are available, on non-discriminatory and reasonable commercial conditions.
- 21.3 The beneficiaries shall comply with Article 21.2 for a period of five years after the final payment.
- 21.4 Should the coordinating beneficiary, for no legitimate reason, refuse to give access to these products or to grant licences under these conditions, the Commission reserves the right to apply the rules in Article 18 or, if the project has ended, to demand full or partial repayment of the Union contribution.

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<sup>3</sup> OJ L 8, 12.1.2001, p. 1.

<sup>4</sup> OJ L 145, 31.5.2001, p. 43.

## **Article 22 - Law applicable and competent court**

The Union contribution shall be governed by the terms of the grant agreement, the Union rules applicable and, on a subsidiary basis, by the law of Belgium relating to grants.

The coordinating beneficiary may bring legal proceedings regarding decisions by the Commission concerning the application of the provisions of the grant agreement and the arrangements for implementing it before the General Court of the European Union and, in the event of an appeal, the Court of Justice.

## **PART II - Financial provisions**

### **Article 23 - Union financial contribution to the project**

23.1 The amount of the Union financial contribution shall be determined by applying the percentage specified in the grant agreement to the eligible costs incurred.

23.2 Under no circumstances may the total amount paid by the Commission to the coordinating beneficiary exceed the maximum amount set for the Union contribution in the grant agreement, even if the total actual eligible costs of a project exceed the budget set in the grant agreement.

The coordinating beneficiary shall ensure that no other direct or indirect European Union funding is used to co-finance the project. If such a situation occurs during implementation of the project, the coordinating beneficiary must inform the Commission without delay about the measures it intends to take to comply with this obligation. The independent auditor provided for in Article 31 shall check the sources of the project financing.

23.3 Notwithstanding the obligations set in Articles 4.6 and 5.5, the coordinating beneficiary and the associated beneficiaries accept that the Union contribution may not have the purpose or effect of producing a profit. Profit shall be defined as a surplus of receipts over the costs of the project when the request is made for final payment.

23.4 Receipts are defined as funds received from the Commission, the coordinating beneficiary, the associated beneficiaries and the co-financiers as well as direct revenue generated, exclusively and directly, by the project (such as participation fees for conferences, sales of timber, etc).

The coordinating beneficiary must ensure that any receipts generated by and during the implementation of the project shall be counted as direct revenue to the project.

Such direct revenue shall always be declared and the Commission shall reduce its financial contribution in order to balance total income against total expenses.

23.5 Without prejudice to the right to terminate the grant agreement under Article 18, and without prejudice to the right of the Commission to apply the penalties referred to in Article 27, if an action is not implemented or is implemented poorly, partially or late, the Commission may proportionally reduce the Union contribution initially provided for in line with the actual implementation of the action on the terms laid down in the grant agreement.

23.6 Claims for payments of the beneficiaries against the Commission may not be assigned to third parties.

### **Article 24 - Eligible costs**

24.1 To be considered eligible, costs must be:

- provided for in the budget of the project or have been authorised through an amendment to the grant agreement;
- directly linked to, and necessary for, carrying out the project covered by the grant agreement;

- reasonable, justified and comply with the principles of sound financial management, in particular in terms of economy and efficiency;
- compliant with applicable tax and social legislation; and
- actually incurred during the lifetime of the project, as defined in the grant agreement, be recorded in the coordinating beneficiary's or any associated beneficiaries' accounts or tax documents, and be identifiable and verifiable

A cost shall be considered as incurred during the lifetime of the project when:

- the legal obligation to pay was contracted after the start date of the project, or after the signature of the grant agreement by the Commission in case this signature takes place before the project start date;
- the implementation of the corresponding action started after the start date for the project and was completed before the end date (the only exceptions are the cost of the financial guarantee covering the period after the signature of the grant agreement and before the start of the project and for the six months after the project end date and the cost of the independent financial audit referred to in Article 31); and
- with the exception of depreciation costs described in Article 24.5, the cost has been fully paid before the submission of the final financial statement.

24.2 Personnel costs shall be charged on the basis of hourly rates obtained by dividing the actual annual gross salary or wages plus obligatory social charges and any other statutory costs included in the remuneration of an employee by the actual total productive hours for that employee. In case the actual total productive hours for the employee are not recorded in a reliable time registration system a default value of 1720 hours shall be used.

Only the costs of the actual hours worked on the project may be charged. The actual hours that each employee spends working on the project, shall be recorded using timesheets or an equivalent time registration system established and certified regularly by the employee and the employer. Exceptionally, for staff working full time for the project, an individual secondment/assignment document may replace the time registration system described above. The individual secondment/assignment shall either take the format of a contractual document or that of a letter of assignment signed by the responsible service or authority of the relevant beneficiary. It shall contain at least the following details: name of employee, function in the project and description of the tasks assigned for the project, explicit indication of the full time nature of the assignment, start and end date of the assignment period.

Staff working for the LIFE project less than 2 full days per month on average are exempted from the time registration obligation.

The costs of natural persons working under a contract with the coordinating beneficiary or an associated beneficiary other than an employment contract may be assimilated to such costs of personnel, provided that the following conditions are fulfilled:

- (i) the natural person works under the instructions of the beneficiary and, unless otherwise agreed with the beneficiary, in the premises of the beneficiary;

(ii) the result of the work belongs to the beneficiary; and

(iii) the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the beneficiary.

Civil servants' salary costs may be funded only to the extent that they relate to the cost of project implementation activities that the relevant public organisation would not have carried out had the project concerned not been undertaken. The staff in question, irrespective of whether they are working full or part time for the project, must be specifically seconded/assigned to a project and they must represent an additional cost with respect to existing permanent staff. The individual assignment shall either take the format of a contractual document or that of a letter of assignment signed by the responsible service or authority of the relevant beneficiary. The sum of the public organisations' contributions (as coordinating beneficiary and/or associated beneficiary) to the project must exceed (by at least 2 %) the sum of the salary costs of the civil servants<sup>5</sup> charged to the project.

24.3 Travel and subsistence costs shall be charged in accordance with the internal rules of the coordinating beneficiary or associated beneficiary.

24.4 External assistance costs relate to sub-contracting costs (work undertaken by external companies, renting of equipment or infrastructure, etc.), in conformity with Article 8.

Costs related to the purchase or leasing (as opposed to renting) of durable equipment, infrastructure or consumables supplied under subcontract shall not be charged to the budget item for external assistance. These costs shall be declared separately under the appropriate budget headings.

The costs of auditing by an independent auditor are charged to this category.

24.5 Depreciation charges relating to durable goods shall be considered only when the durable goods are:

- placed on the coordinating beneficiary's or associated beneficiary's inventory or other type of registry of durable goods,
- treated as capital expenditure in accordance with the tax and accounting rules applicable to the coordinating beneficiary or associated beneficiaries in the project, and
- purchased or leased at normal market rates.

24.6 Notwithstanding the specific provisions in Article 24.8 and in Article 24.10, the coordinating beneficiary/associated beneficiary shall apply its internal accounting standard/rules to calculate the eligible depreciation charge, taking into account the type of infrastructure/equipment, the date of its purchase/manufacture/lease, the duration of the project and the rate of actual use for the purposes of the project. The independent auditor as required by Article 31 shall confirm that the amounts reported as project expenses correspond to the actual depreciation charges which are recorded in the coordinating beneficiary's / associated beneficiary's accounting systems.

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<sup>5</sup> The definition of civil servant includes all permanent employees of public bodies.

However, these eligible depreciation charges will be limited to the following ceilings:

- Infrastructure costs: 25% of the total purchase cost;
- Equipment costs: 50% of the total purchase cost.

24.7 As an exception to Article 24.6, for projects funded under LIFE+ Environment Policy and Governance and LIFE+ Biodiversity, no ceiling applies to prototypes, for which 100% of the purchase costs are eligible for co-funding.

A prototype is infrastructure and/or equipment specifically created for the implementation of the project and that has never been commercialised and/or is not available as a serial product. The prototype must play a crucial role in the demonstration activities of the project. Only components purchased and used within the life of the project may be declared.

A prototype may not be used for commercial purposes during the life of the project and for five years after the project ends. Should the prototype or any of its components be used for commercial purposes (i.e. sold, leased, rented or used to produce goods or services) during, or within five years from the end of the project, this shall be declared. The costs of creating the prototype shall then be depreciated in accordance with Articles 24.5 and 24.6.

24.8 The depreciation charges relating to durable goods acquired before the starting date of the project shall be considered ineligible. Such costs are considered to be included in the "overheads" cost category.

24.9 For LIFE+ Nature projects and for LIFE+ Biodiversity projects, the costs incurred for durable goods by public authorities or non-governmental / private non-commercial organisations, intrinsically connected with implementation of the project and used to a significant degree within its duration shall be considered eligible in full. Such eligibility shall be subject to the coordinating beneficiary and associated beneficiaries undertaking to continue to assign these goods definitively to nature conservation activities beyond the end of the project co-financed under LIFE+ Nature and LIFE+ Biodiversity.

24.10 For LIFE+ Nature projects, the costs related to land / rights purchases and leases shall be eligible and shall be accounted for separately from durable goods. The provisions in Article 25 shall apply.

24.11 Expenditure on consumable material shall relate to the purchase, manufacture, repair or use of any material, goods or equipment which is:

- not included on the inventory of durable goods of the coordinating beneficiary or associated beneficiaries in the project;
- not treated as capital expenditure in accordance with the tax and accounting rules applicable to the coordinating beneficiary or associated beneficiaries in the project; and
- specifically related to implementation of the project (however, general office consumables/supplies are considered to be included in the "overheads" cost category).

24.12 Other costs mean any costs necessary for the project, not falling within a defined category.

- 24.13 The costs incurred in lodging the financial guarantee, when required by the Commission, shall be charged to the "Other costs" category.
- 24.14 Overheads shall be eligible for flat-rate funding of a maximum of 7% of the total amount of eligible direct costs actually incurred, excluding land purchase/lease costs. They need not be supported by accounting documents. They shall be eligible as indirect costs, which are intended to cover general indirect costs needed to employ, manage, accommodate and support directly or indirectly the personnel working on the project.

#### **Article 25 - Land/rights purchase, land lease**

- 25.1 Costs incurred for land/rights purchases, intrinsically connected with implementation of a LIFE+ Nature project and explicitly envisaged therein, shall be considered eligible in full provided that:
- purchase prices are based on market terms;
  - coordinating beneficiary and associated beneficiaries undertake to continue to assign the purchased assets definitively to nature conservation activities beyond the end of the project co-financed under LIFE+ Nature;
  - for land purchased as provided for in the project, the coordinating beneficiary shall ensure the entry in the land register includes a guarantee that the land will be assigned definitively to nature conservation. If in a given Member State the land register does not exist or it does not provide a sufficient legal guarantee, the coordinating beneficiary shall have a clause for the definitive assignment of the land to nature conservation included in the land sale contract. For countries where it would be illegal to include such a guarantee both in the land register and in the sale contract, the Commission may accept an equivalent guarantee in this connection, provided it offers the same legal level of protection in the long term and complies with the requirement contained in Annex I of the LIFE+ Regulation;
  - for land purchased by private organisations, the sales contract and/or its registration in the land register includes a guarantee that the land property will be transferred to a legal body primarily active in the field of nature protection, in case of dissolution of the private organisation or its incapacity to manage the land according to nature conservation requirements. For countries where it would be illegal to include such a guarantee in the land register or sales contract, the Commission may accept an equivalent guarantee in this connection, provided it offers the same legal level of protection in the long term and complies with the requirement contained in Annex I of the LIFE+ Regulation;
  - in case of land purchased to be exchanged at a later date, the exchange is carried out before the end of the project at the latest and the provisions of the present Article shall apply to the lands received through the exchange. The land purchased to be exchanged shall be exempt, at the stage of the mid-term reporting, from the guarantee that the land will be assigned definitively to nature conservation.
- 25.2 The duration of a land lease shall either be restricted to the project duration or be at least of 20 years and shall be compatible with the needs of habitat and species protection. In the case of long-term lease of land, the lease contract shall clearly

include all the provisions and commitments that will permit the achievement of its objectives in terms of habitat and species protection.

- 25.3 For LIFE+ Nature projects, the Land Purchase Database (LPD) stores electronic data of land parcels financed by LIFE+. The coordinating beneficiary is responsible for entering and validating the land purchase data (both descriptive and spatial) in the LPD at the stage of the final report submission. The data format will have to be adapted to the GIS standards used in the LPD. The coordinating beneficiary will be provided access to the LPD 6 months before the project end date.

## **Article 26 - Ineligible costs**

The following costs shall not be regarded as eligible and therefore are not included by the Commission in the calculation of the total eligible cost:

- any cost incurred for an action partially or totally financed under European Union financial instruments;
- costs incurred in relation to activities not foreseen in the project or to modifications of actions, for which the written additional agreement foreseen in Article 15 was not issued;
- costs incurred for the purchase of durable goods or for the production of communication material, including notice boards and websites, not bearing the LIFE logo (and the Natura 2000 logo, when applicable);
- costs for which a coordinating beneficiary and / or associated beneficiary already receives an operating grant from the Commission during the period in question;
- any costs related to any action that can be considered as a compensatory measure that is the responsibility of a Member State and that is decided in relation to the Birds' and Habitats' Directives;
- costs relating to management plans, action plans and similar plans, drafted or modified in the context of a LIFE+ project, if the related plan is not legally operational before the project end date. This includes the completion, before the project end date, of all procedural/legal steps in Member States where such procedures are foreseen;
- costs in any category of expenditure over and above that foreseen in the budget plus 10% and €30 000 (as referred to in Article 15.2);
- costs related to invoicing between associated beneficiaries and between associated beneficiaries and the coordinating beneficiary;
- costs that result from transactions between departments of associated beneficiaries or of the coordinating beneficiary, except where all elements of profit, VAT and overheads are excluded;
- exchange rate losses;
- unnecessary or wasteful outlays;
- distribution, marketing and advertising expenses to promote products or commercial activities, except where specifically indicated in the project;
- any provisions for possible future losses or liabilities;

- interest charges;
- doubtful debts;
- financial expenses or costs related to finding / obtaining alternative sources of co-financing;
- entertainment expenses, except such expenses accepted as being wholly and exclusively necessary for carrying out the work under the project;
- any costs relating to other projects financed by third parties;
- assets and services donated, including voluntary work;
- travel and accommodation expenses and any form of remuneration in the name of agents of the Union institutions and of the external monitoring teams;
- investments in major infrastructure;
- fundamental scientific research;
- licence or patent fees or other fees related to the protection of intellectual property rights;
- costs for EMAS and ECOLABEL registration procedures;
- land purchase, if not complying with the conditions set in Article 25.

Other costs could also be considered as ineligible if they do not meet the criteria stipulated by Article 24.

#### **Article 27 - Financial penalties**

By virtue of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union, the coordinating beneficiary or any associated beneficiary declared to be in grave breach of its obligations shall be liable to financial penalties of between 2% and 10% of the value of the contribution the beneficiary concerned is entitled to in accordance with the estimated budget set out in Annex I.

This rate may be increased to between 4% and 20% in the event of a repeated breach in the five years following the establishment of the first breach. The coordinating beneficiary shall be notified in writing through a registered letter of any decision by the Commission to apply such financial penalties.

#### **Article 28 - Methods of payment**

28.1 The financial contribution from the Union shall be paid in two, three or four instalments.

28.2 A first pre-financing payment, equivalent to 40% of the maximum Union financial contribution. This payment is increased to 70% for projects with an implementation period of 24 months or less or a Union contribution of €300 000 or less. Either contribution will be paid within 30 days commencing on the day of the receipt of:

- the grant agreement signed by both parties;
- a signed payment request stating the name and address of the coordinating beneficiary, the name and address of the bank, the bank account details, and the project reference;

- a financial guarantee, where applicable. Depending on the coordinating beneficiary's financial viability as evaluated during the selection phase, a guarantee issued by a bank or an insurance company may be requested by the Commission during the revision phase. This guarantee will equal the amount of the first pre-financing and will cover the duration of the project plus six months. Its validity will be extended in the event of an extension of the project. In exceptional cases, this guarantee could be replaced by a joint and several guarantee by a third party. The financial guarantee is to be in the format set out in Annex VI of the grant agreement.

28.3 A mid-term pre-financing payment, equivalent to 40% of the maximum Union financial contribution, will be paid for projects with an implementation period of more than 24 months and a Union contribution of more than €300 000. This payment shall be made on condition that at least 150% of the first pre-financing payment has been consumed (as a percentage of costs incurred).

In exceptional cases, when the implementation period exceeds 48 months and the Union contribution exceeds €2 000 000, the coordinating beneficiary may request two mid-term pre-financing payments: a first mid-term pre-financing payment equivalent to 20% of the maximum Union financial contribution on condition that at least 100% of the first pre-financing payment has been consumed (as a percentage of costs incurred); and a second mid-term pre-financing payment equivalent to 20% of the maximum Union financial contribution on condition that at least 100% of the first pre-financing payment and of the first mid-term pre-financing payment has been consumed (as a percentage of costs incurred).

In exceptional cases, when a first pre-financing has not been paid, the coordinating beneficiary may request a mid-term pre-financing payment on the condition that an amount equivalent to at least 60 % of the maximum contribution foreseen in the Special Conditions has been spent. The amount of this payment will then be determined by applying the percentage specified in the grant agreement to the costs incurred at the date of the mid-term technical report and the financial statement; it will nevertheless be limited to 80% of the maximum contribution foreseen in the Special Conditions.

In all the above cases of mid-term pre-financing, the payment shall be made on condition that it has been requested at least nine months before the project's end date.

Without prejudice to Article 28.5 the mid-term payment shall be made by the Commission within 90 days commencing on the day receipt of:

- a signed request for payment stating the name and address of the coordinating beneficiary and the project reference number;
- the official registration number, organisation, name and address of the auditor when required by Article 31;
- the corresponding mid-term financial statement and the mid-term report, as stipulated by Article 12.

Approval of the mid-term report and the mid-term financial statement accompanying the request for payment shall in no way imply the recognition of the eligibility, regularity or of the authenticity, completeness and correctness of the declarations and of the information they contain.

- 28.4 Without prejudice to Article 28.5 the balance (final payment) shall be paid by the Commission within 90 days commencing on the day receipt of:
- a signed request for payment stating the name and address of the coordinating beneficiary and , the name and address of the bank, the bank account details, the project reference number;
  - the corresponding final financial statement covering the entire project period and the final report, as stipulated by Article 12;
  - an audit report, if required by Article 31.

Approval of the final report and the final financial statement accompanying the request for payment shall in no way imply the recognition of the regularity or of the authenticity, completeness and correctness of the declarations and of the information they contain.

- 28.5 The Commission may suspend the time limit for payment specified in Articles 28.2, 28.3 and 28.4 at any time by formally notifying the coordinating beneficiary that its request for payment cannot be met, either because it does not comply with the provisions of the grant agreement, or because the appropriate supporting documents have not been produced, or because there is a doubt about the eligibility of the costs declared in the financial statement.

The coordinating beneficiary shall be notified as soon as possible of any such suspension, together with the reasons thereof.

Suspension shall take effect on the date when notification is sent by the Commission. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension exceeds two months, the coordinating beneficiary may request a decision by the Commission on whether the suspension is to be continued.

Where the time limit for payment has been suspended following the rejection of one of the technical reports or financial statements and the new report or statement submitted is also rejected, the Commission reserves the right to terminate the grant agreement in accordance with Article 18.3.1(c), with the effects described in Article 18.4.

- 28.6 Commission payments shall be made in Euro (€).
- 28.7 All payments shall be made to the bank account of the coordinating beneficiary. Any change of account must be immediately communicated to the Commission.
- 28.8 Costs of the transfers are borne in the following way:
- costs of dispatch charged by the bank of the Commission shall be borne by the Commission;
  - costs of receipt charged by the bank of a beneficiary shall be borne by the beneficiary;
  - all costs of repeated transfers caused by one of the parties shall be borne by the party who caused repetition of the transfer.
- 28.9 The payment shall be considered made on the day it is debited to the Commission's bank account.

- 28.10 Without prejudice to possible suspension of the payment period, the coordinating beneficiary is entitled to late payment interest in accordance with Article 111 of the Implementing Rules to the Financial Regulation<sup>6</sup>.
- 28.11 If any amount is unduly paid to the coordinating beneficiary or if recovery is justified under the terms of the agreement, the coordinating beneficiary undertakes to repay the Commission the sum in question on whatever terms and by whatever date it may specify.
- 28.12 If payment has not been made by the date set out in the debit note, the amount due shall bear interest at the rate established in Article 28.10. Interest on late payment shall cover the period running from the day following the due date for payment, up to and including the date when the Commission actually receives payment in full of the outstanding amount.  
Any partial payment shall first be appropriated against charges and interest on late payment and then against the principal.
- 28.13 Bank charges occasioned by the repayment of sums due to the Commission shall be borne entirely by the coordinating beneficiary.
- 28.14 By virtue of Article 299 of the Treaty on the Functioning of the European Union, for the purposes of recoveries or financial penalties, the Commission may adopt an enforceable decision to impose pecuniary obligations on persons other than States.
- 28.15 If payment has not been made by the due date, sums owed to the Commission may be recovered by offsetting them against any sums owed to the coordinating beneficiary, after informing him accordingly by registered letter with acknowledgement of receipt or equivalent, or by calling in the financial guarantee provided in accordance with Article 28.2. In exceptional circumstances, justified by the necessity to safeguard the financial interests of the Union, the Commission may recover by offsetting before the due date of the payment. The coordinating beneficiary's prior consent shall not be required.

## **Article 29 - Financial statement**

- 29.1 Financial statements shall be submitted on the occasion of mid-term and final reports. They shall cover the same time period as the corresponding technical report. The mid-term or final financial statements must include a consolidated statement as well as a breakdown of the amounts claimed by each beneficiary. In addition, the request for final payment shall contain a summary financial statement which must include a consolidated financial statement and a breakdown of the amounts declared by each beneficiary, aggregating the financial statements already submitted previously and indicating the receipts referred to in point (a) of Article 23.4 for each beneficiary.
- 29.2 Financial statements shall be presented in accordance with the Guidelines provided by the Commission. One copy shall be transmitted to the Commission and one to the external monitoring team designated by the Commission.
- 29.3 The coordinating beneficiary shall certify that information contained in requests for payment is full, reliable and true, that the financial documents submitted to the

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<sup>6</sup> OJ L 362, 31.12.2012, p. 38.

Commission comply with these common provisions, that the costs declared are the actual costs and that all receipts have been declared.

- 29.4 Documents justifying expenditure (e.g. invoices) do not have to be annexed to the financial statement. The coordinating beneficiary shall, however, if requested, provide the Commission with all details, including invoices, which it might need for evaluation of the expenditure and of the corresponding activity report.
- 29.5 Only the Euro (€) shall be used in the financial statement.

Beneficiaries with general accounts in a currency other than the Euro shall convert costs incurred in another currency into Euro using the exchange rate applied by the European Central Bank on the first working day of the year in which the expenditure is paid. The same conversion rule applies to project revenue.

Beneficiaries with general accounts in Euro shall convert costs incurred in another currency into Euro according to their usual accounting practices.

### **Article 30 - Value added tax**

- 30.1 When the coordinating beneficiary or any of its associated beneficiaries is not in a position to recover the VAT paid under the project, this amount shall be considered eligible expenditure.
- 30.2 For VAT charges to be considered eligible, the coordinating beneficiary must prove with documents emitted by the responsible authorities or included in legal acts that it and/or its associated beneficiaries must pay and may not recover the VAT for the assets and services required for the project. In lieu of such legal documents, the Commission may accept, as proof of VAT eligibility, an explicit declaration in the independent financial audit mentioned in article 31 listing the amounts of VAT that have been paid and that may not be recovered by the coordinating beneficiary and/or its associated beneficiaries.

### **Article 31 - Independent financial audit**

- 31.1 An independent auditor, nominated by the coordinating beneficiary, shall verify the final financial statement provided to the Commission when the maximum Union contribution set in the Special Provisions exceeds €300 000.
- 31.2 The auditor shall verify compliance with national legislation and accounting rules and certify that all costs incurred comply with this grant agreement. The auditor shall also check the sources of the project financing, and in particular that co-financing does not stem from other Union financial instruments. The work to be performed must be in accordance with, and in the format of, the Guidelines provided by the Commission.

### **Article 32 - Audit by the EU institutions**

- 32.1 The Commission, or any representative authorised by the Commission, may audit the coordinating beneficiary or an associated beneficiary at any time during the project implementation period and up to five years after the final payment of the Union contribution, as referred to in Article 28.4.
- 32.2 The audit shall be carried out on a confidential basis.

- 32.3 The Commission or any authorised representative shall have access to the documentation required to ascertain the eligibility of the costs of the beneficiaries, such as invoices, payroll extracts, purchase orders, proof of payment, time sheets and any other documents used for the calculation and presentation of costs.
- 32.4 The Commission shall take appropriate steps to ensure that its authorised representatives treat confidentially the data to which they have access or which are provided to them.
- 32.5 The Commission may verify the use made of the Union's financial contribution by the coordinating beneficiary and the associated beneficiaries.
- 32.6 Information on the findings of the audit shall be sent to the coordinating beneficiary. The coordinating beneficiary may communicate to the Commission any observations of the beneficiaries within one month of receiving it. The Commission may decide not to take into account any observations conveyed after the deadline.
- 32.7 On the basis of the conclusions of the audit, the Commission shall take all appropriate measures it considers necessary, including the issuing of a recovery order regarding all or part of the payments made by it.
- 32.8 The Court of Auditors may verify the use made of the Union's financial contribution in the framework of this grant agreement, on the basis of its own procedures. By virtue of Council Regulation (Euratom, EC) No 2185/96<sup>7</sup> and Regulation (EC) No 1073/1999 of the European Parliament and of the Council<sup>8</sup>, the European Anti-Fraud Office (OLAF) may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the European Union against fraud and other irregularities. Where appropriate, the inspection findings may lead to recovery decisions by the Commission.
- 32.9 The coordinating beneficiary and the associated beneficiaries undertake to allow Commission staff and persons authorised by the Commission appropriate access to their sites or premises where the project is being carried out and to all documents relating to the technical and financial management of the operation. Access by persons authorised by the Commission may be subject to confidentiality arrangements to be agreed between the Commission and the coordinating beneficiary.
- 32.10 Such checks may be initiated up to five years after the final payment as referred to in Article 28.4.
- 32.11 Such checks shall be carried out on a confidential basis.
- 32.12 The coordinating beneficiary and the associated beneficiaries shall provide appropriate assistance to the Commission or its authorised representatives.
- 32.13 The Court of Auditors and the European Anti-Fraud Office (OLAF) shall have the same rights as the Commission under this article, notably right of access and assistance, for the purpose of checks, audits and investigations.

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<sup>7</sup> OJ L 292, 15.11.1996, p. 2.

<sup>8</sup> OJ L 136, 31.5.1999, p. 1.

### **Article 33 - State aid**

Any aid granted by the State or through State resources to the project covered by this agreement must comply with the rules laid down in Articles 107 and 108 of the Treaty on the functioning of the European Union.