



**MULTIPLE BENEFICIARIES GRANT AGREEMENT FOR TARGETED ACTION  
in accordance with the COUNCIL REGULATION (EC) N° 870/2004 of 24 April 2004  
establishing a Community programme on the conservation, characterisation, collection  
and utilisation of genetic resources in agriculture**

**AGREEMENT NUMBER 018 AGRI GEN RES 870/2004**

Contract number AGRI-2006-0265

The European Community (“the Community”), represented by the Commission of the European Communities (“the Commission”), itself represented for the purposes of signature of the agreement by Mr Leo MAIER, Head of Unit, Directorate for Agriculture and Rural Development, Unit F1, Environment, GMO and Genetic Resources of the one part,

and

Universidad de Castilla-La Mancha (UCLM)  
C/. Altagracia 50  
13071 Ciudad Real  
Spain

hereinafter called “the co-ordinator”, represented for the purposes of signature of the agreement by Mr Francisco QUILES, Vicerrector de Investigación

and the following “co-beneficiaries”:

- Junta de Comunidades de Castilla – La Mancha (JCCM), Pintor Matias Moreno 4, 45071 Toledo, Spain
- Agricultural University of Athens (AUA), Iera Odos 75, 11855 Athens, Greece
- Aristotle University of Thessaloniki (AUTH), Administration Building – University Campus, 54124 Thessaloniki, Greece
- Universidad Politécnica de Valencia (UPVLC), Camino de Vera s/n, 46022 Valencia, Spain
- Tradimpex JM Thiercelin (TJMT), 11-13 rue Gustave Eiffel, 94510 La Queue en Brie, France
- Dipartimento di OrtoFloroArboricoltura e Tecnologie Agroalimentari, Università di Catania (DOFATA – UNICT), Via Valdisavoia 5, 95123 Catania, Italy
- University of Debrecen (School of Independent Faculties) (UD), Egyetem tér 1, 4032 Debrecen, Hungary
- National Polytechnic Institute of Toulouse (INPT), 6 allées Emile Monso, 31029 Toulouse, France
- University of Leicester (ULEIST), University Road, Leicester LE1 7RH, United Kingdom
- National Agricultural Research Foundation (NAGREF), Egialias 19 and Chalepa str, 15125 Marousi, Athens, Greece

who have conferred powers of attorney for the purposes of the signature of the agreement to the representative of the co-ordinator, collectively “the beneficiaries”, and each individually identified as “beneficiary” for purposes of this agreement where a provision applies without distinction to the co-ordinator or a co-beneficiary

of the other part,

HAVE AGREED

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

- Annex I** Description of the action
- Annex II** Estimated budget of the action (comprising a consolidated version together with a breakdown of costs and receipts between each beneficiary)
- Annex III** Technical implementation reports and financial statements to be submitted
- Annex IV** Mandates conferring powers of attorney from the co-beneficiaries to the co-ordinator
- Annex V** Statement for technical involved participants

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

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

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

## I – SPECIAL CONDITIONS

### ARTICLE I.1 – PURPOSE OF THE GRANT

- I.1.1 The Commission has decided to award a grant, under the terms and conditions set out in the Special Conditions, the General Conditions and the Annexes to the agreement, which the beneficiaries hereby declare that they have taken note of and accept, for the action entitled **Genetic resources of saffron and allies (crocus spp.)** ("the action").
- I.1.2 The beneficiaries accept the grant and undertake to do everything in their power to carry out the action as described in Annex I, acting on their own responsibility.

### ARTICLE I.2 – DURATION

- I.2.1 The agreement shall enter into force on the date when the last party signs.
- I.2.2 The action shall run from 01 June 2007 ("the starting date of the action") and therefore ends on 31 May 2011 ("the closing date of the action").

### ARTICLE I.3 – ROLE OF THE BENEFICIARIES

- I.3.1 The co-ordinator shall:
- a) have full responsibility for ensuring that the action is implemented in accordance with the agreement;
  - b) be the intermediary for all communication between the co-beneficiaries and the Commission in accordance with Article I.8. Any claims that the Commission might have in respect of the agreement shall be addressed to, and answered by, the co-ordinator, save where specifically stated otherwise in the agreement;
  - c) be responsible for supplying all documents and information to the Commission which may be required under the agreement, in particular in relation to the requests for payment. The co-ordinator shall not delegate any part of this task to the co-beneficiaries or to any other party. Where information from the co-beneficiaries is required, the co-ordinator shall be responsible for obtaining and verifying this information and for passing it on to the Commission;
  - d) inform the Commission and the co-beneficiaries of any event of which the co-ordinator is aware that is liable to substantially affect the implementation of the action;
  - e) inform the Commission of transfers between items of eligible costs, as provided in Article I.4.4;

- f) make the appropriate arrangements for providing the financial guarantee or the joint guarantee of the beneficiaries participating in the action, when requested, under the provisions of Article I.5;
- g) establish the payment requests on behalf of the beneficiaries, detailing the exact share and amount assigned to each beneficiary, in accordance with the agreement, the estimated eligible costs as foreseen in Annex II, and the actual costs incurred. All payments by the Commission are made to the bank account(s) referred to in paragraph 1 of Article I.7;
- h) being the sole recipient of payments on behalf of all of the beneficiaries, ensure that all the appropriate payments are made to the co-beneficiaries without unjustified delay in accordance with paragraph 2 of Article I.7 and shall inform the Commission of the distribution of the Community financial contribution between the co-beneficiaries and of the date of transfer;
- i) be responsible, in the event of audits, checks or evaluations, as described in Articles II.6 and II.20, for providing all the necessary documents, including the accounts of the co-beneficiaries, the original accounting documents and signed copies of sub-contracts, if any have been concluded by the beneficiaries in accordance with Article II.9.

#### I.3.2 The co-beneficiaries shall:

- a) agree upon appropriate arrangements between themselves and the co-ordinator for the proper performance of the action; The beneficiaries are deemed to have concluded an internal co-operation agreement regarding their internal operation and co-ordination. The co-operation agreement shall include all aspects necessary for the management of the beneficiaries and the implementation of the action;
- b) forward to the co-ordinator the data needed to draw up the reports, financial statements and other documents provided for in the agreement including its Annexes;
- c) ensure that all information to be provided to the Commission is sent via the co-ordinator, save where the agreement specifically stipulates otherwise;
- d) inform the co-ordinator immediately of any event liable to substantially affect or delay the implementation of the action of which they are aware;
- e) inform the co-ordinator of transfers between items of eligible costs, as provided in Article I.4.4;
- f) provide the co-ordinator with all the necessary documents in the event of audits, checks or evaluations, as described in Articles II.6 and II.20;

### **ARTICLE I.4 – BREAKDOWN OF COSTS – FINANCING THE ACTION**

- I.4.1 The total cost of the action is estimated at EUR 2,634,137 as shown in the estimated budget in Annex II. The estimated budget shall give a detailed breakdown of the costs

that are eligible for Community funding under the terms of Article II.14, of any other costs that the action may entail, and of all receipts, so that receipts and costs balance.

The estimated budget in Annex II shall include a table indicating the breakdown of estimated eligible costs and receipts between each beneficiary. The table shall be agreed collectively by the beneficiaries and shall be deemed to form an integral part of the estimated budget of the agreement.

I.4.2 The total eligible costs of the action for which the Commission grant is awarded are estimated at EUR 1,859,014, as shown in the estimated budget in Annex II. Indirect costs are eligible for flat-rate funding of not more than 7 % of the total direct costs eligible, subject to the conditions laid down in Article II.14.3.

I.4.3 The Commission shall contribute a maximum of EUR 929,507, equivalent to 50.00 % of the estimated total eligible costs indicated in paragraph 2. The final amount of the grant shall be determined as specified in Article II.17, without prejudice to Article II.19.

The Community grant may not finance the entire costs of the action. The amount and sources of cofinancing other than from Community funds shall be set out in the estimated budget referred to in paragraph 1.

I.4.4 By way of derogation from Article II.13, the co-ordinator may, in agreement with the co-beneficiaries, when carrying out the action, adjust the estimated budget by transfers between items of eligible costs, provided that this adjustment of expenditure does not affect implementation of the action and the transfer between items does not exceed 10% of the amount of each item of estimated eligible costs for which the transfer is intended, and without exceeding the total eligible costs indicated in paragraph 2. The co-ordinator shall inform the Commission in writing.

## **ARTICLE I.5 – PAYMENT ARRANGEMENTS**

### **I.5.1 Pre-financing**

No pre-financing payment as specified in Articles II.15.1 and II.15.2 shall be made to the co-ordinator.

### **I.5.2 Interim payments**

Any request for interim payment shall be accompanied by the interim technical implementation report and financial statement, including a consolidated statement and a breakdown between each beneficiary, specified in Article II.15.3 and by an external audit report on the action's accounts. The Commission shall have 45 days to approve or reject the technical implementation report or to request additional supporting documents or information under the procedure laid down in Article II.15.3. In that case, the co-ordinator shall have 30 days to submit the additional information requested or a new report.

Without prejudice to Article II.15.3, the amount of the interim payment shall be determined on the basis of the eligible costs actually incurred and paid, as shown in the interim statement and validated by the Commission, to which shall be applied the percentage of the Community grant specified in Article I.4.3. In no circumstances may the sum of the interim payments exceed 80 % of the maximum amount of the grant specified in Article I.4.3.

The interim payment shall be made to the co-ordinator within 45 days following approval by the Commission of the documents accompanying the request for interim payment. The Commission may suspend the period for payment in accordance with the procedure in Article II.16.2.

### I.5.3 Payment of the balance

The request for payment of the balance shall be accompanied by the final technical implementation report and financial statement, including a consolidated statement and a breakdown between each beneficiary, specified in Article II.15.4 and by an external audit report on the action's accounts per beneficiary. The Commission shall have 45 days to approve or reject the technical implementation report or to request additional supporting documents or information under the procedure laid down in Article II.15.4. In that case, the co-ordinator shall have 30 days to submit the additional information or a new report.

Without prejudice to Article II.15.4, a payment representing the balance of the grant determined on the basis of the eligible costs actually incurred and paid in accordance with Article II.17 shall be made to the co-ordinator within 45 days following approval by the Commission of the technical implementation report accompanying the request for payment of the balance. The Commission may suspend the period for payment in accordance with the procedure in Article II.16.2.

### I.5.4 Applied exchange rate

By way of derogation from Article II.16.1, the coordinator shall use for the conversion of national currencies into euro the monthly exchange rate published by the Commission on its website at (<http://ec.europa.eu/budget/inforeuro/>). The coordinator shall use the monthly exchange rate applicable on the date stated on the coordinator's claim, which summarises the financial statement and related documents, as stated in Annex III. The claims shall be submitted in euro only.

## **ARTICLE I.6 – SUBMISSION OF REPORTS AND OTHER DOCUMENTS**

The provisions relating to the submission of the technical implementation reports, financial statements and other documents referred to in Article I.5 are contained in Annex III.

The technical implementation reports, financial statements and other documents referred to in Article I.5 must be submitted by the co-ordinator in three copies in English as well as on CD in electronic format on the following dates:

- annual interim technical implementation reports and annual interim financial statements: not later than two months following each anniversary of the “starting date of the action” as specified in Article I.2.2,
- final technical implementation report and final financial statement: not later than three months following the “closing date of the action” as specified in Article I.2.2.

The financial statements shall be submitted on excel sheets that correspond to the forms attached to Annex III.

Documents not referred to in Article I.5 must be submitted in English also.

## **ARTICLE I.7 – BANK ACCOUNT**

I.7.1. All payments shall be made to the co-ordinator's bank account or sub-account denominated in euro, as indicated below:

Caja Castilla la Mancha  
 Plaza del Altozano n1  
 02001 Albacete  
 Spain  
 Account holder: Universidad de Castilla-La Mancha  
 IBAN account code: ES3721051860590142021126

I.7.2. Within 30 days of the day on which the bank account under I.7.1 has been credited, the co-ordinator shall transfer to each co-beneficiary the amounts corresponding to their share of validated costs actually incurred.

## **ARTICLE I.8 – GENERAL ADMINISTRATIVE PROVISIONS**

I.8.1. Any communication in connection with the agreement shall be in writing, indicating the number of the agreement, and shall be sent to the following addresses:

For the Commission:

European Commission  
 DG AGRI  
 'Genetic Resources'  
 Rue de Genève 1  
 B-1049 Brussels

Ordinary mail shall be considered to have been received by the Commission on the date on which it is formally registered by the Commission.

For the co-ordinator:

Universidad de Castilla-La Mancha (UCLM)

Att: Mr José-Antonio Fernández  
Professor, IDR-Biotecnología  
Campus Universitario, s/n  
02071 Albacete  
Spain

- I.8.2 Any communication from the Commission to the co-ordinator and/or co-beneficiaries and vice versa shall be made via the co-ordinator.

#### **ARTICLE I.9 – LAW APPLICABLE AND COMPETENT COURT**

The grant is governed by the terms of the agreement, the Community rules applicable and, on a subsidiary basis, by the law of Belgium relating to grants.

The beneficiaries may bring legal proceedings regarding decisions by the Commission concerning the application of the provisions of the agreement and the arrangements for implementing it before the Court of First Instance of the European Communities and, in the event of appeal, the Court of Justice of the European Communities.

#### **ARTICLE I.10 – DATA PROTECTION**

All personal data contained in the agreement, including its execution, or related to it shall be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely in connection with the implementation and follow-up of the agreement by the Head of Unit responsible for implementing the Council Regulation (EC) No 870/2004 as referred in Article I.8, without prejudice to the possibility of passing the data to the bodies responsible for inspection and audit in accordance with Community legislation.

Beneficiaries may, on written request, gain access to their personal data and correct any information that is inaccurate or incomplete. They should address any questions regarding the processing of their personal data to the Head of Unit responsible for implementing the Council Regulation (EC) No 870/2004 as referred in Article I.8. Beneficiaries may lodge a complaint against the processing of their personal data with the European Data Protection Supervisor at any time.



## **ARTICLE I.11 – EXTERNAL AUDIT**

Without prejudice to the Article II.20 of the General Conditions, an external audit of the action's account for each beneficiary shall be carried out for each financial statement by an independent body or expert officially authorised to carry out audits of accounts.

In addition to auditing the accounts, as established in Articles II.15.3 and II.15.4, the external audit shall verify and certify also payment of the claimed expenses, compliance with the rules for awarding contracts as established in Article II.9 and compliance with the beneficiary's usual practices on travel costs, as referred to in Article II.14.2 second bullet.

The audit certificate needs to be submitted together with the requests for reimbursement, i.e. together with the annual interim financial statements and the final financial statement (see Annex III).

Provided that a subsequent audit certificate covers also the previous requests, interim requests for co-funding of a cumulative amount below EUR 10,000 per beneficiary need not be accompanied by audit certificates as described above. However, regardless of the amount, each beneficiary shall submit an audit certificate together with the request for payment of the balance. In any case, audit certificates need to cover the entire amounts requested for reimbursement. Non-audited expenses may be considered as non-eligible.

## **ARTICLE I.12 – USE OF PHOTOGRAPHS, GRAPHS AND CHARTS**

Without prejudice to Article II.3.1 and in addition to the right to make free use of the results of the action as established in Article II.3.2, the beneficiaries grant the Commission the right to use the photographs, graphs and charts included in the interim and final reports of the action for publishing and disseminating the results of the Community Programme, as established in Article 11 of Council Regulation (EC) No 870/2004.

## **ARTICLE I.13 – ELIGIBLE COSTS**

The total eligible cost, as established in Article I.4.2, is the sum of the total direct costs eligible plus the flat-rate funding for the indirect cost, as established in Article I.4.2.

By way of derogation from Article II.14.5, contribution in kind shall not constitute eligible cost; the exceptions specified in Article II.14.5 do not apply.

The expenses for administrative staff are considered as indirect cost and are covered by the flat-rate funding established in Article I.4.2. Without prejudice to this provision, the coordinator may claim expenses for administrative staff that shall not exceed annually half a man-year of effort, even for complex actions.

Without prejudice to Article II.14.2 third bullet, the purchase cost of equipment shall be written off linearly over 5 years; i.e. 20% for each entire year of use. Only the proportion of

depreciation of the equipment that falls within the duration of the action and the rate of actual use for the purposes of the action may be taken into account by the Commission.

Without prejudice to Article II.14.2 second bullet, the expenses for travelling shall be eligible according to the beneficiaries' usual practices on subsistence allowances and travel cost. However, the expenses for subsistence allowances shall be eligible with a maximum ceiling of EUR 176 per day, the expenses for air travel shall be eligible only up to the maximum ceiling of the equivalent of economy class tickets, the expenses for travel by private car shall be eligible only up to the maximum ceiling of EUR 0.25 per kilometre and the expenses for rented cars shall be eligible only up to the equivalent of a category B car.

The cost related to travel outside the European Union can be considered for co-funding only in cases where prior written authorisation for such travel was obtained from the Commission for travel to and from destinations outside the European Union. Costs of the external audits can be claimed as eligible cost for reimbursement for each of these audits up to a maximum of EUR 500.

#### **ARTICLE I.14 – DOCUMENTATION OF COSTS**

The beneficiaries shall maintain up-to-date books of account, in accordance with accepted accounting conventions imposed by law and regulations. For the sake of traceability of expenditure and income, an analytical accounting system (cost centre accounting) should be used and the action shall become a cost centre on its own. In order to facilitate any on-the-spot inspection, the beneficiaries shall keep appropriate supporting documentation for all expenditure, income and revenue for the action as reported to the Commission, such as invoices, purchase orders, proof of payments, salary slips, time sheets and any other documents used for the calculation and presentation of costs.

For the purpose of verifying the financial statements, the Commission may ask to see any original supporting document or a certified true copy thereof. It may do so by having a representative on the spot or by requesting that the documents be sent.

#### **ARTICLE I.15 – DISSEMINATION OF INFORMATION**

The aim of the grant is to increase the conservation and sustainable use of genetic resources in agriculture and the knowledge about them. The beneficiaries shall be committed to disseminate information on the results of their work by various means and to make this information available to relevant end-users and stakeholders, in particular the farming community.

#### **ARTICLE I.16 – MAXIMUM CO-FUNDING FROM COMMUNITY**

The total eligible cost of the action, as stated in Article I.4.2, shall be co-funded by the Community only with the grant as stated in Article 1.4.3. This Community grant shall not be accumulated with other Community-funds, directly or indirectly, for co-funding the action. Using

other Community-funds for the action would lead to an annulment of this grant, based on Article 111 of the Financial Regulation [Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002].

#### **ARTICLE I.17 – FINANCIAL RESPONSIBILITY**

By derogation from Article II.18, the financial responsibility of a beneficiary shall not exceed the maximum amount of the Community contribution the beneficiary is entitled to receive according to Articles I.4.3 and I.18. In case a beneficiary receives from the co-ordinator under his/her responsibility more than the amount stated above, the financial responsibility will be up to the amount actually received.

#### **ARTICLE I.18 – SAME COFUNDING RATE FOR ALL BENEFICIARIES**

The same co-funding rate applies to all beneficiaries. The flat-rate, as established in Article I.4.2, for overheads is multiplied with the total direct cost eligible of each beneficiary and the rate of contribution from the Commission, as established in Article I.4.3, is multiplied with the eligible cost of each beneficiary to calculate the amount to be paid or recovered.

#### **ARTICLE I.19 – INVOLVEMENT OF OTHERS**

The co-ordinator shall assure that the following organisations located outside the European Union are technically involved in the action as described in the submitted proposal:

- Gazi University (GU), Gazi Üniversitesi Rektörlüğü Teknikokullar, 06500 Ankara, Turkey
- Azerbaijan National Academy of Sciences, Institute of Botany (ANAS), Patamdart St 40, 1073 Baku, Azerbaijan
- National Research Centre (NRC), Elbehoth St., 12311 Cairo, Egypt

The expenses of organisations located outside the European Union shall not constitute eligible cost as defined in Articles I.13 and II.14. The co-ordinator shall assure that the provisions of checks and audits as foreseen in Article II.20 apply also to the organisations located outside the European Union.

## **II – GENERAL CONDITIONS**

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

#### **ARTICLE II.1 – LIABILITY**

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

#### **ARTICLE II.2 – CONFLICT OF INTERESTS**

The beneficiaries undertake to take all the necessary measures to prevent any risk of conflicts of interests which could affect the impartial and objective performance of the agreement. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional reasons, or any other shared interest.

Any situation constituting or likely to lead to a conflict of interests during the performance of the agreement must be brought to the attention of the Commission, in writing, without delay. The beneficiaries shall undertake to take whatever steps are necessary to rectify this situation at once. The Commission reserves the right to check that the measures taken are appropriate and may demand that the beneficiaries take additional measures, if necessary, within a certain time.

#### **ARTICLE II.3 – OWNERSHIP/USE OF THE RESULTS**

- II.3.1 Unless stipulated otherwise in the agreement, ownership of the results of the action, including industrial and intellectual property rights, and of the reports and other documents relating to it shall be vested in the beneficiaries.
- II.3.2 Without prejudice to paragraph 1, the beneficiaries grant the Commission the right to make free use of the results of the action as it deems fit, provided it does not thereby

breach its confidentiality obligations or existing industrial and intellectual property rights.

#### **ARTICLE II.4 – CONFIDENTIALITY**

The Commission and the beneficiaries undertake to preserve the confidentiality of any document, information or other material directly related to the subject of the agreement that is duly classed as confidential, if disclosure could cause prejudice to the other party. The parties shall remain bound by this obligation beyond the closing date of the action.

#### **ARTICLE II.5 – PUBLICITY**

II.5.1 Unless the Commission requests otherwise, any communication or publication by the beneficiaries collectively or any one of the beneficiaries individually about the action, including at a conference or seminar, shall indicate that the action has received funding from the Community.

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

II.5.2 The beneficiaries authorise the Commission to publish the following information in any form and medium, including via the Internet:

- the beneficiaries' names and addresses,
- the subject and purpose of the grant,
- the amount granted and the proportion of the action's total cost covered by the funding.

Upon a reasoned and duly substantiated request by the co-ordinator, the Commission may agree to forgo such publicity if disclosure of the information indicated above would risk compromising the beneficiaries' security or prejudicing their commercial interests.

#### **ARTICLE II.6 – EVALUATION**

Whenever the Commission carries out an interim or final evaluation of the action's impact measured against the objectives of the Community programme concerned, the co-ordinator with the support of the co-beneficiaries undertake to make available to the Commission and/or persons authorised by it all such documents or information as will allow the evaluation to be successfully completed and to give them the rights of access specified in Article II.20.

#### **ARTICLE II.7 – SUSPENSION**

- II.7.1 The co-ordinator, in agreement with the co-beneficiaries, may suspend implementation of the action if exceptional circumstances make this impossible or excessively difficult, notably in the event of force majeure. The co-ordinator shall inform the Commission without delay, giving all the necessary reasons and details and the foreseeable date of resumption.
- II.7.2 If the Commission does not terminate the agreement under Article II.11.3, the beneficiaries shall resume implementation of the action as initially planned once circumstances allow and the co-ordinator shall inform the Commission accordingly. The duration of the action might be extended by a period equivalent to the length of the suspension. In accordance with Article II.13, a supplementary written agreement shall be concluded to extend the duration of the action and to make any amendments that may be necessary to adapt the action to the new implementing conditions.

#### **ARTICLE II.8 – FORCE MAJEURE**

- II.8.1 Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents them from fulfilling any of their obligations under the agreement, was not attributable to error or negligence on their part, and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available (unless due to force majeure), labour disputes, strikes or financial difficulties cannot be invoked as force majeure by the defaulting party.
- II.8.2 A party faced with force majeure shall inform the other party without delay by registered letter with advice of delivery or equivalent, stating the nature, probable duration and foreseeable effects.
- II.8.3 The party faced with force majeure shall not be held in breach of his obligations under the agreement if he's prevented from fulfilling them by force majeure. The parties shall make every effort to minimise any damage due to force majeure.
- II.8.4 The action may be suspended in accordance with Article II.7.

#### **ARTICLE II.9 – AWARD OF CONTRACTS**

- II.9.1 If the beneficiaries have to conclude contracts in order to carry out the action and they constitute costs of the action under an item of eligible direct costs in the estimated budget, they shall seek competitive tenders from potential contractors and award the contract to the bid offering best value for money; in doing so they shall observe the principles of transparency and equal treatment of potential contractors and shall take care to avoid any conflict of interests.
- II.9.2 Contracts as referred to in paragraph 1 may be awarded only in the following cases:
- a) they may only cover the execution of a limited part of the action;

- b) recourse to the award of contracts must be justified having regard to the nature of the action and what is necessary for its implementation;
- c) the tasks concerned must be set out in Annex I and the corresponding estimated costs must be set out in detail in the budget in Annex II;
- d) any recourse to the award of contracts while the action is under way, if not provided for in the initial grant application, shall be subject to prior written authorisation by the Commission;
- e) the beneficiaries shall retain sole responsibility for carrying out the action and for compliance with the provisions of the agreement. The beneficiaries must undertake to make the necessary arrangements to ensure that the contractor waives all rights in respect of the Commission under the agreement;
- f) the beneficiaries must undertake to ensure that the conditions applicable to them under Articles II.1, II.2, II.3, II.4, II.5, II.6, II.10 and II.20 of the agreement are also applicable to the contractor.

## **ARTICLE II.10 – ASSIGNMENT**

Claims for payments to be carried out by the Commission may not be transferred.

In exceptional circumstances, where the situation warrants it, the Commission may authorise the assignment to a third party of the agreement and payments flowing from it following a written request to that effect, giving reasons, from the co-ordinator in agreement with the co-beneficiaries. If the Commission agrees, it must make its agreement known in writing to the co-ordinator before the proposed assignment takes place. In the absence of the above authorisation, or in the event of failure to observe the terms thereof, the assignment shall not be enforceable against and shall have no effect on the Commission.

In no circumstances shall such an assignment release the beneficiaries from their obligations to the Commission.

## **ARTICLE II.11 – TERMINATION OF THE AGREEMENT**

### **II.11.1 Termination by the co-ordinator**

In duly justified cases, the co-ordinator, in agreement with the co-beneficiaries, may withdraw the beneficiaries' request for a grant and terminate the agreement at any time by giving 60 days' written notice stating the reasons, without being required to furnish any indemnity on this account.

If no reasons are given or if the Commission does not accept the reasons, the agreement shall be deemed to have been terminated improperly, with the consequences set out in the fifth subparagraph of paragraph 5.

### **II.11.2 Termination of the participation of a beneficiary**

In duly justified cases, the co-ordinator may request to terminate the participation of a beneficiary by giving 60 days written notice. The co-ordinator shall include with any such request to the Commission the remaining beneficiaries' proposal to reallocate the tasks of that beneficiary or where relevant to nominate a replacement, the reasons for the termination of the participation and the opinion of the beneficiary whose participation is requested to be terminated.

In duly justified cases, any beneficiary may request the termination of his participation in the agreement. The request must be submitted to the Commission by the co-ordinator by giving 60 days written notice stating the reasons.

If no reasons are given or if the Commission does not accept the reasons, the participation shall be deemed to have been terminated improperly, with the consequences set out in the fifth subparagraph of paragraph 5.

The termination of the participation of the beneficiary concerned shall take effect on the date of the Commission's approval. A written additional agreement shall be concluded to make any amendments necessary to adapt the action to the new implementing conditions resulting from the partial termination.

### **II.11.3 Termination by the Commission**

The Commission may decide to terminate the agreement or the participation of any one or several beneficiaries participating in the action without any indemnity on its part, in the following circumstances:

- a) in the event of a legal, financial, technical, organisational or ownership change in a beneficiary's situation that is liable to affect the agreement substantially or to call into question the decision to award the grant;
- b) if a beneficiary fails to fulfil a substantial obligation incumbent on him under the terms of the agreement, including its annexes;
- c) in the event of force majeure, notified in accordance with Article II.8, or if the action has been suspended as a result of exceptional circumstances, notified in accordance with Article II.7;
- d) if a beneficiary is declared bankrupt, is being wound up or is the subject of any other similar proceedings;
- e) if a beneficiary is found guilty of an offence involving his professional conduct by a judgment having the force of res judicata or if he is guilty of grave professional misconduct proven by any justified means;
- f) if a beneficiary is guilty of misrepresentation or submits information or reports inconsistent with reality to obtain the grant provided for in the agreement;
- g) if a beneficiary has intentionally or by negligence committed a substantial irregularity in performing the agreement or in the event of fraud, corruption or any other illegal activity on the part of a beneficiary to the detriment of the European Communities'



financial interests. A substantial irregularity consists of any infringement of a provision of an agreement or regulation resulting from an act or an omission on the part of a beneficiary which causes or might cause a loss to the Community budget.

#### **II.11.4 Termination procedure**

The procedure is initiated by registered letter, with advice of delivery or equivalent. The co-ordinator shall ensure that all beneficiaries are duly informed.

In the cases referred to in points (a), (b) and (d) of paragraph 3, the co-ordinator, in consultation with the co-beneficiaries, shall have 30 days to submit observations and take any measures necessary to ensure continued fulfilment of the beneficiaries' obligations under the agreement. If the Commission fails to confirm acceptance of these observations by giving written approval within 30 days of receiving them, the procedure shall continue to run.

Where notice is given, termination shall take effect at the end of the period of notice, which shall start to run from the date when notification of the Commission's decision to terminate the agreement or the participation of a beneficiary is received.

Where notice is not given in the cases referred to in points (c), (e), (f) and (g) of paragraph 3, termination shall take effect from the day following the date on which notification of the Commission's decision to terminate the agreement or the participation of a beneficiary is received.

#### **II.11.5 Effects of termination**

In the event of termination of the agreement, payments by the Commission shall be limited to the eligible costs actually incurred by the beneficiaries up to the date when termination takes effect, in accordance with Article II.17. Costs relating to current commitments that are not due to be executed until after termination shall not be taken into account.

The co-ordinator shall have 60 days from the date when termination of the agreement takes effect, as notified by the Commission, to produce a request for final payment in accordance with Article II.15.4. If no request for final payment is received within this time limit, the Commission shall not reimburse the expenditure incurred by the beneficiaries up to the date of termination and it shall recover any amount if its use is not substantiated by the technical implementation reports and financial statements approved by the Commission.

Where termination affects the participation of a beneficiary, only those eligible costs actually incurred by the beneficiary concerned up to the date when termination of his participation takes effect, in accordance with Article II.17 shall be considered eligible. Costs relating to current commitments that were not due to be executed until after termination shall not be taken into account. The request for payment of the eligible costs incurred up to the date when the termination of the participation of the beneficiary concerned takes effect shall be included in the following payment request due according to the schedule laid down in Article I.6.

By way of exception, at the end of the period of notice referred to in paragraph 4, where the Commission is terminating the agreement on the grounds that the co-ordinator has failed to

produce the final technical implementation report and financial statement within the deadline stipulated in Article I.5 and the co-ordinator has still not complied with this obligation within two months following the written reminder sent by the Commission by registered letter with advice of delivery or equivalent, the Commission shall not reimburse the expenditure incurred by the beneficiaries up to the date on which the action ended and it shall recover any amount if its use is not substantiated by the technical implementation reports and financial statements approved by the Commission.

By way of exception, in the event of improper termination of the agreement by the co-ordinator, or a beneficiary's participation in the action, or termination by the Commission on the grounds set out in points (e), (f) or (g) of paragraph 3, the Commission may require the partial or total repayment of sums already paid under the agreement on the basis of technical implementation reports and financial statements approved by the Commission, in proportion to the gravity of the failings in question and after allowing the co-ordinator, and where relevant co-beneficiaries concerned, to submit their observations.

## **ARTICLE II.12 – FINANCIAL PENALTIES**

By virtue of the Financial Regulation applicable to the general budget of the European Communities, any one or several of the beneficiaries declared to be in grave breach of their obligations under the agreement shall be liable to financial penalties of between 2% and 10% of the value of their share of the grant in question, with due regard for the principle of proportionality.

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

## **ARTICLE II.13 – SUPPLEMENTARY AGREEMENTS**

- II.13.1 Any amendment to the grant conditions must be the subject of a written supplementary agreement. No oral agreement may bind the parties to this effect.
- II.13.2 The supplementary agreement may not have the purpose or the effect of making changes to the agreement which might call into question the decision awarding the grant or result in unequal treatment of applicants.
- II.13.3 Where the request for amendment is made by the co-ordinator, in agreement with the co-beneficiaries, he must send the request to the Commission in good time before it is due to take effect and at all events one month before the closing date of the action, except in cases duly substantiated by the co-ordinator and accepted by the Commission.

## **PART B – FINANCIAL PROVISIONS**

### **ARTICLE II.14 – ELIGIBLE COSTS**

II.14.1 To be considered as eligible costs of the action, costs must satisfy the following general criteria:

- they must be connected with the subject of the agreement and they must be provided for in the estimated budget annexed to it;
- they must be necessary for performance of the action covered by the agreement;
- they must be reasonable and justified and they must accord with the principles of sound financial management, in particular in terms of value for money and cost-effectiveness;
- they must be generated during the lifetime of the action as specified in Article I.2.2 of the agreement;
- they must be actually incurred by the beneficiaries, be recorded in their accounts in accordance with the applicable accounting principles, and be declared in accordance with the requirements of the applicable tax and social legislation;
- they must be identifiable and verifiable.

The beneficiaries' internal accounting and auditing procedures must permit direct reconciliation of the costs and revenue declared in respect of the action with the corresponding accounting statements and supporting documents.

II.14.2 The eligible direct costs for the action are those costs which, with due regard for the conditions of eligibility set out in Article II.14.1, are identifiable as specific costs directly linked to performance of the action and which can therefore be booked to it direct. In particular, the following direct costs are eligible provided that they satisfy the criteria set out in the previous paragraph:

- the cost of staff assigned to the action, comprising actual salaries plus social security charges and other statutory costs included in the remuneration, provided that this does not exceed the average rates corresponding to the beneficiary's usual policy on remuneration;
- travel and subsistence allowances for staff taking part in the action, provided that they are in line with the beneficiary's usual practices on travel costs or do not exceed the scales approved annually by the Commission;

- the purchase cost of equipment (new or second-hand), provided that it is written off in accordance with the tax and accounting rules applicable to the beneficiary and generally accepted for items of the same kind. Only the portion of the equipment's depreciation corresponding to the duration of the action and the rate of actual use for the purposes of the action may be taken into account by the Commission, except where the nature and/or the context of its use justifies different treatment by the Commission;
- costs of consumables and supplies, provided that they are identifiable and assigned to the action;
- costs entailed by other contracts awarded by a beneficiary for the purposes of carrying out the action, provided that the conditions laid down in Article II.9 are met;
- costs arising directly from requirements imposed by the agreement (dissemination of information, specific evaluation of the action, audits, translations, reproduction, etc.), including the costs of any financial services (especially the cost of financial guarantees). Such costs may also include specific costs incurred by the co-ordinator for fulfilling his responsibilities in his capacity of the body responsible for the overall management of the action and the co-ordination of the beneficiaries.

II.14.3 The eligible indirect costs for the action are those costs which, with due regard for the conditions of eligibility described in Article II.14.1, are not identifiable as specific costs directly linked to performance of the action which can be booked to it direct, but which can be identified and justified by the co-ordinator or a co-beneficiary using their accounting system as having been incurred in connection with the eligible direct costs for the action. They may not include any eligible direct costs.

By way of derogation from Article II.14.1, the indirect costs incurred in carrying out the action may be eligible for flat-rate funding fixed at not more than 7% of the total eligible direct costs. If provision is made in Article I.4.2 for flat-rate funding in respect of indirect costs, they need not be supported by accounting documents.

II.14.4 The following costs shall not be considered eligible:

- return on capital;
- debt and debt service charges;
- provisions for losses or potential future liabilities;
- interest owed;
- doubtful debts;
- exchange losses;
- VAT, unless the beneficiary can show that he is unable to recover it;

- costs declared by a beneficiary and covered by another action or work programme receiving a Community grant;
- excessive or reckless expenditure.

II.14.5 Contributions in kind shall not constitute eligible costs. However, the Commission can accept, in duly substantiated exceptional cases, that the cofinancing of the action referred to in Article I.4.3 should be made up entirely or in part of contributions in kind. In this case, the value calculated for such contributions must not exceed:

- the costs actually borne and duly supported by accounting documents of the third parties who made these contributions to the beneficiary free of charge but bear the corresponding costs;
- the costs generally accepted on the market in question for the type of contribution concerned when no costs are borne.

Contributions involving buildings shall not be covered by this possibility.

In the case of cofinancing in kind, a financial value shall be placed on the contributions and the same amount will be included in the costs of the action as ineligible costs and in receipts from the action as cofinancing in kind. The beneficiaries shall undertake to obtain these contributions as provided for in the agreement.

II.14.6 By way of derogation from paragraph 3, indirect costs shall not be eligible under a grant for an action awarded to a beneficiary who already receives an operating grant from the Commission during the period in question.

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

Payments shall be made in accordance with Article I.5 of the Special Conditions.

### **II.15.1 – PRE-FINANCING**

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

Where required by the provisions of Article I.5 on pre-financing, the co-ordinator shall furnish a financial guarantee from a bank or an approved financial institution established in one of the Member States of the European Union.

The guarantor shall stand as first call guarantor and shall not require the Commission to have recourse against the principal debtor.

The financial guarantee shall remain in force until final payments by the Commission match the proportion of the total grant accounted for by pre-financing. The Commission undertakes to release the guarantee within 60 days following that date.

### **II.15.2 – FURTHER PRE-FINANCING PAYMENTS**

Where pre-financing is divided into several instalments, the co-ordinator may request a further pre-financing payment once the percentage of the previous payment specified in the provisions of Article I.5 on further pre-financing has been used up. The request shall be accompanied by the following documents:

- a detailed statement of the eligible costs actually incurred, including a consolidated statement and a breakdown between each beneficiary;
- where required by the above-mentioned provisions of Article I.5, a financial guarantee in accordance with paragraph 1;
- where required by the above-mentioned provisions of Article I.5, an external audit report on the action's accounts for each beneficiary as specified under Article I.5. The external audit shall be carried out by an independent body or expert officially authorised to carry out audits of accounts;
- any other documents in support of his request that may be required in support of the request for further pre-financing payments.

The documents accompanying the request for payment shall be drawn up in accordance with the relevant provisions in Article I.6 and the annexes.

### **II.15.3 – INTERIM PAYMENTS**

Interim payments are intended to reimburse the beneficiaries for expenditure on the basis of a detailed statement of the costs incurred, once the action has reached a certain level of completion. It may clear all or part of any prefinancing.

By the appropriate deadline indicated in Article I.6, the co-ordinator shall submit a request for interim payment accompanied by the following documents:

- an interim report on implementation of the action;
- an interim financial statement of the eligible costs actually incurred, following the structure of the estimated budget, including a consolidated statement and a breakdown between each beneficiary;
- where required by the provisions of Article I.5 on interim payment, an external audit report on the action's accounts for each beneficiary as specified under Article I.5. The external audit shall be carried out by an independent body or expert officially authorised to carry out audits of accounts. The purpose of the audit is to certify that the financial documents submitted to the Commission by the co-ordinator comply with the financial provisions of the agreement, that the costs declared are the actual costs, and that all receipts have been declared.

The documents accompanying the request for payment shall be drawn up in accordance with the relevant provisions in Article I.6 and the annexes. If an external audit of the action's accounts is not required, the co-ordinator and the co-beneficiaries themselves shall certify that

the financial documents submitted to the Commission comply with the financial provisions of the agreement, that the costs declared are the actual costs, and that all receipts have been declared.

On receipt of these documents, the Commission shall have the period specified in Article I.5 in order to:

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

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

Requests for additional information or a new report shall be notified to the co-ordinator in writing. The co-ordinator shall have the period laid down in Article I.5 to submit the information or new documents requested.

If additional information is requested, the time limit for scrutiny shall be extended by the time it takes to obtain this information.

Where a report is rejected and a new report requested, the approval procedure described in this article shall apply.

In the event of renewed rejection, the Commission reserves the right to terminate the agreement by invoking Article II.11.3(b).

#### **II.15.4 – PAYMENT OF THE BALANCE**

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

By the appropriate deadline indicated in Article I.6, the co-ordinator shall submit a request for payment of the balance accompanied by the following documents:

- a final report on the implementation of the action;
- a final financial statement of the eligible costs actually incurred, following the structure of the estimated budget, including a consolidated statement and a breakdown between each beneficiary;
- a full summary statement of the receipts and expenditure of the action including a consolidated statement and a breakdown between each beneficiary;

- where required by the provisions of Article I.5 on payment of the balance, an external audit report on the action's accounts for each beneficiary as specified under Article I.5. The external audit shall be carried out by an independent body or expert officially authorised to carry out audits of accounts. The purpose of the audit is to certify that the financial documents submitted to the Commission by the co-ordinator comply with the financial provisions of the agreement, that the costs declared are the actual costs and that all receipts have been declared.

The documents accompanying the request for payment shall be drawn up in accordance with the provisions of Article I.6 and the annexes. If an external audit of the action's accounts is not required, the co-ordinator and the co-beneficiaries themselves shall certify that the financial documents submitted to the Commission comply with the financial provisions of the agreement, that the costs declared are the actual costs and that all receipts have been declared.

On receipt of these documents, the Commission shall have the period specified in Article I.5 in order to:

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

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

Requests for additional information or a new report shall be notified to the co-ordinator in writing. The co-ordinator shall have the period laid down in Article I.5 to submit the information or new documents requested.

If additional information is requested, the time limit for scrutiny shall be extended by the time it takes to obtain this information.

Where a report is rejected and a new report requested, the approval procedure described in this article shall apply.

In the event of renewed rejection, the Commission reserves the right to terminate the agreement by invoking Article II.11.3(b).

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

II.16.1 Payments shall be made by the Commission in euro. Any conversion of actual costs into euro shall be made at the daily rate published in the Official Journal of the European Union or, failing that, at the monthly accounting rate established by the Commission and published on its website applicable on the day when the payment



order is issued by the Commission, unless the Special Conditions of the agreement lay down specific provisions.

Payments by the Commission shall be deemed to be effected on the date when they are debited to the Commission's account.

- II.16.2 The Commission may suspend the period for payment laid down in Article I.5 at any time by notifying the co-ordinator that his request for payment cannot be met, either because it does not comply with the provisions of the agreement, or because the appropriate supporting documents have not been produced or because there is a suspicion that some of the expenses in the financial statement are not eligible and additional checks are being conducted.

The Commission may also suspend its payments at any time if a beneficiary is found or presumed to have infringed the provisions of the agreement, in particular in the wake of the audits and checks provided for in Article II.20.

The Commission shall inform the co-ordinator of any such suspension by registered letter with advice of delivery or equivalent.

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

- II.16.3 On expiry of the period for payment specified in Article I.5, and without prejudice to paragraph 2 of this Article, the co-ordinator may, within two months following the date of receipt of a late payment, request payment of interest on the late payment at the rate applied by the European Central Bank for its main refinancing operations in euros, plus three and a half points; the reference rate to which the increase applies shall be the rate in force on the first day of the month of the final date for payment, as published in the C series of the Official Journal of the European Union. This provision shall not apply to recipients of a grant which are public authorities of the Member States of the European Union.

Interest on late payment shall cover the period from the final date for payment, exclusive, up to the date of payment as defined in paragraph 1, inclusive. The interest shall not be treated as a receipt for the action for the purposes of determining the final grant within the meaning of Article II.17.4. The suspension of payment by the Commission may not be considered as late payment.

- II.16.4 The co-ordinator shall inform the Commission of the amount of any interest or equivalent benefits yielded by the pre-financing received from the Commission. Where payments are made directly to each beneficiary, each beneficiary shall report to the co-ordinator on the said amounts. Notification must be made annually if the interest in question represents a significant amount, and in any event when the request is made for interim payment or for payment of the balance that clears the pre-financing. The

interest shall not be treated as a receipt for the action within the meaning of Article II.17.4.

- II.16.5 The co-ordinator shall have two months from the date of notification by the Commission of the final amount of the grant determining the amount of the payment of the balance or the recovery order pursuant to Article II.17, or failing that of the date on which the payment of the balance was received, to request information in writing on the determination of the final grant, giving reasons for any disagreement. After this time such requests will no longer be considered. The Commission undertakes to reply in writing within two months following the date on which the request for information is received, giving reasons for its reply. This procedure is without prejudice to the beneficiaries' right to appeal against the Commission's decision pursuant to Article I.9. Under the terms of Community legislation in this matter, such appeals must be lodged within two months following the notification of the decision to the applicant or, failing that, following the date on which the applicant learned of the decision.

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

- II.17.1 Without prejudice to information obtained subsequently pursuant to Article II.20, the Commission shall adopt the amount of the final payment to be granted to the beneficiaries on the basis of the documents referred to in Article II.15.4 which it has approved.
- II.17.2 The total amount paid by the Commission may not in any circumstances exceed the maximum amount of the grant laid down in Article I.4.3, even if the total actual costs eligible exceed the estimated total eligible costs specified in Article I.4.2.
- II.17.3 If the actual eligible costs when the action ends are lower than the estimated total eligible costs, the Commission's contribution shall be limited to the amount obtained by applying the Community grant percentage specified in Article I.4.3 to the actual eligible costs approved by the Commission.
- II.17.4 The beneficiaries hereby agree that the grant shall be limited to the amount necessary to balance the action's receipts and expenditure and that it may not in any circumstances produce a profit for them.

Profit shall mean any surplus of total actual receipts attributable to the action over the total actual costs of the action. The actual receipts to be taken into account shall be those which have been established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the co-ordinator for financing other than the Community grant, to which shall be added the amount of the grant determined by applying the principles laid down in paragraphs 2 and 3 of this article. For the purposes of this article, only actual costs falling within the categories set out in the estimated budget referred to in Article I.4.1 and contained in Annex II shall be taken into account; non-eligible costs shall always be covered by non-Community resources.

Any surplus determined in this way shall result in a corresponding reduction in the amount of the grant.

- II.17.5 Without prejudice to the right to terminate the agreement under Article II.11, and without prejudice to the right of the Commission to apply the penalties referred to in Article II.12, if the action is not implemented or is implemented poorly, partially or late, the Commission may reduce the grant initially provided for in line with the actual implementation of the action on the terms laid down in the agreement.
- II.17.6 On the basis of the amount of the final payment determined in this way and of the aggregate amount of the payments already made under the terms of the agreement, the Commission shall set the amount of the payment of the balance as being the amount still owing to the beneficiaries. Where the aggregate amount of the payments already made exceeds the amount of the final grant, the Commission shall issue a recovery order for the surplus.

#### **ARTICLE II.18 – FINANCIAL RESPONSIBILITY**

The beneficiaries agree to be irrevocably and unconditionally, jointly and severally responsible for any amount due to the Commission by one of them which could not be honoured by the latter. The amount due to the Commission will not exceed the maximum value of the contribution that could be granted to the beneficiaries in accordance with Article I.4.3, increased where applicable by interest on late payment.

The beneficiaries are not jointly responsible for financial penalties which could be imposed on any defaulting beneficiary in accordance with Article II.12.

#### **ARTICLE II.19 – RECOVERY**

- II.19.1 Where an amount, paid by the Commission to the co-ordinator in his capacity of recipient of all payments, is to be recovered under the terms of the agreement, the co-ordinator undertakes to repay the Commission the sum in question, on whatever terms and by whatever date it may specify, even if he has not been the final recipient of the amount due. In the latter case, if payment has not been made by the due date, the Commission reserves the right to recover directly the amount due from the final recipient.

Where such an amount to be recovered under the terms of the agreement was directly paid by the Commission to a beneficiary, or if recovery is justified under Article II.12 of the agreement, the beneficiary concerned undertakes to pay the Commission the sum in question, on whatever terms and by whatever date it may specify.

- II.19.2 If the obligation to pay the amount due is not honoured by the date set by the Commission, the amount due shall bear interest at the rate indicated in Article II.16.3. Interest on late payment shall cover the period between the date set for payment, exclusive, and the date when the Commission receives full payment of the amount owed, inclusive.

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

- II.19.3 Sums owed to the Commission may be recovered by offsetting them against any sums owed to the concerned beneficiary after informing him accordingly by registered letter with acknowledgment of receipt or equivalent, or, depending on the terms of the Special conditions, by calling in the financial guarantee provided in accordance with Article II.15.1. The beneficiary's prior consent shall not be required. If the recovery remains unsuccessful under the provisions above, the Commission shall hold all the beneficiaries collectively jointly responsible for the amount due in accordance with Article II.18.
- II.19.4 Bank charges occasioned by the recovery of the sums owed to the Commission shall be borne by the concerned beneficiary.
- II.19.5 The beneficiaries understand that under Article 256 of the Treaty establishing the European Community, the Commission may adopt an enforceable decision formally establishing an amount as receivable from persons other than States. An action may be brought against such decision before the Court of First Instance of the European Communities.

#### **ARTICLE II.20 – CHECKS AND AUDITS**

- II.20.1 The co-ordinator undertakes to provide any detailed information requested by the Commission or by any other outside body authorised by the Commission to check that the action and the provisions of the agreement are being properly implemented. Where the Commission so wishes, it may request such information to be provided directly by a co-beneficiary.
- II.20.2 The beneficiaries shall keep at the Commission's disposal all original documents, especially accounting and tax records, or, in exceptional and duly justified cases, certified copies of original documents relating to the agreement, stored on any appropriate medium that ensures their integrity in accordance with the applicable national legislation, for a period of five years from the date of payment of the balance specified in Article I.5.
- II.20.3 The beneficiaries agree that the Commission may have an audit of the use made of the grant carried out either directly by its own staff or by any other outside body authorised to do so on its behalf. Such audits may be carried out throughout the period of implementation of the agreement until the balance is paid and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.
- II.20.4 The beneficiaries undertake to allow Commission staff and outside personnel authorised by the Commission the appropriate right of access to sites and premises where the action is carried out and to all the information, including information in electronic format, needed in order to conduct such audits.

II.20.5 By virtue of Council Regulation (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999 of the European Parliament and the Council, the European Anti-Fraud Office (OLAF) may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Community law for the protection of the financial interests of the European Communities against fraud and other irregularities. Where appropriate, the inspection findings may lead to recovery decisions by the Commission.

II.20.6 The European Court of Auditors shall have the same rights as the Commission, notably right of access, as regards checks and audits.

SIGNATURES

For the co-ordinator  
Mr Francisco QUILES  
Vicerrector de Investigación

For the Commission  
Leo MAIER

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Done at Ciudad Real, .....  
Date

Done at Brussels, .....  
Date

In duplicate in English