

REGULATIONS AND OBLIGATIONS OF THE SUPPLIER ACCORDING TO INNOVATION AND NETWORKS EXECUTIVE AGENCY (“AGENCY”) PROCEDURES

I. DAMAGES

1. The Agency shall not be held liable for any damage caused or sustained by any of the Supplier, including any damage caused to third parties as a consequence of or during the implementation of the action.
2. Except in cases of force majeure, the Supplier shall compensate the Agency for any damage sustained by it as a result of the implementation of the action or because the action was not implemented or implemented poorly, partially or late.

II. CONFLICT OF INTERESTS

1. The Supplier shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest (“conflict of interests”).
2. Any situation constituting or likely to lead to a conflict of interests during the implementation of the Contract shall be notified to the Agency, in writing, without delay. The Supplier shall immediately take all the necessary steps to rectify this situation. The Agency reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.

III. CONFIDENTIALITY

1. The Agency and the Supplier shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the implementation of the Contract and which are explicitly indicated in writing as confidential.
2. The Supplier shall not use confidential information and documents for any reason other than fulfilling their obligations under the Contract, unless otherwise agreed with the Agency in writing.
3. The Agency and the Supplier shall be bound by the obligations referred to in point III.1 and III. 2 above during the implementation of the Contract and for a period of five years starting from the payment of the balance, unless: the party concerned agrees to release the other party from the confidentiality obligations earlier; the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the party bound by that obligation; the disclosure of the confidential information is required by law.

IV. PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)

1. 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 Ordering Party.
2. Where industrial and intellectual property rights, including rights of third parties, exist prior to the conclusion of the Contract, the Supplier shall establish a list which shall specify all rights of ownership and use of the pre-existing industrial and intellectual property rights and disclose it to the Agency and the Ordering Party at the latest before the commencement of implementation.
3. The Supplier shall ensure that they or their affiliated entities have all the rights to use any pre-existing industrial and intellectual property rights during the implementation of the

Contract. In addition the Agency has the rights to: a) summarise the results of the action and distribute the summary; b) extract a part (e.g. audio or video files) of, divide into parts or compile the results of the action.

4. The Supplier grant the Ordering Party and the Agency the right to use the results of the Contract for the following purposes:

(a) use for its own purposes, and in particular, making available to persons working for the Agency, Union institutions, other Union agencies and bodies and to Member States' institutions, as well as copying and reproducing in whole or in part and in unlimited number of copies;

(b) distribution to the public, and in particular, publication in hard copies and in electronic or digital format, publication on the internet, including on the Europa website, as a downloadable or non-downloadable file, broadcasting by any kind of technique of transmission, public display or presentation, communication through press information services, inclusion in widely accessible databases or indexes;

(c) translation;

(d) giving access upon individual requests without the right to reproduce or exploit, as provided for by 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;

(e) storage in paper, electronic or other format;

(f) archiving in line with the document management rules applicable to the Agency;

(g) rights to authorise or sub-licence the modes of exploitation set out in points (b) and (c) to third parties.

5. The Supplier shall warrant that the Agency has the right to use any pre-existing industrial and intellectual property rights, which have been included in the results of the action. Those pre-existing rights shall be used for the same purposes and under the same conditions applicable to the rights of use of the results of the action.

6. Information about the copyright owner shall be inserted when the result is divulged by the Agency. The copyright information shall read: "© – [year] – [name of the copyright owner]. All rights reserved. Licenced to the Innovation and Networks Executive Agency under conditions.".

VI. CHECKS, AUDITS AND EVALUATION

1. The European Commission („Commision”) or the Agency may carry out technical and financial checks and audits in relation to the use of the grant. It may also check the statutory records of the Supplier for the purpose of periodic assessments of lump sum, unit cost or flat-rate amounts.

2. Information and documents provided in the framework of checks or audits shall be treated on a confidential basis.

3. In addition, the Commission or the Agency may carry out interim or final evaluation of the impact of the action measured against the objective of the Union programme concerned, in order to assess whether the objectives, including those relating to environmental protection, have been attained.

4. Checks, audits or evaluations made by the Commission or the Agency may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

5. Such checks, audits or evaluations may be initiated during the implementation of the Contract and for a period of five years starting from the date of payment of the balance.

This period shall be limited to three years if the maximum amount specified in Article 3 of Grant Agreement is not more than EUR 60 000.

6. The check, audit or evaluation procedure shall be deemed to be initiated on the date of receipt of the letter of the Commission or the Agency announcing it.
7. The Supplier shall keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by their respective national law and under the conditions laid down therein, for a period of five years starting from the date of payment of the balance. This period shall be limited to three years if the maximum amount specified in Article 3 of Grant Agreement is not more than EUR 60 000.
8. The periods set out above shall be longer if there are on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the case referred to in point 17 of this Attachment. In such cases, the beneficiaries shall keep the documents until such audits, appeals, litigation or pursuit of claims are closed.
9. The Supplier shall provide any information, including information in electronic format, requested by the Commission or the Agency or by any other outside body authorised by it in the framework of a check, audit or evaluation.
10. In case of the Supplier does not comply with the obligations set out in referred to in point VI. 9 above, the Commission or the Agency may consider: a) any cost insufficiently substantiated by information provided by the Supplier as ineligible; b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the Supplier as undue.
11. During an on-the-spot visit, the Supplier shall allow Commission or Agency staff and outside personnel authorised by the Commission or the Agency to have access to the sites and premises where the action is or was carried out, and to all the necessary information, including information in electronic format.
12. They shall ensure that the information is readily available at the moment of the on-the-spot visit and that information requested is handed over in an appropriate form.
13. In case or the Supplier refuses to provide access to the sites, premises and information in accordance with the point VI.11 and VI.12 above, the Commission and the Agency may consider: a) any cost insufficiently substantiated by information provided as ineligible; b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided as undue.
14. On the basis of the findings made during the audit, a provisional report ("draft audit report") shall be drawn up. It shall be sent by the Commission or the Agency or its authorised representative to the Supplier concerned, which shall have 30 days from the date of receipt to submit observations. The final report ("final audit report") shall be sent to the Supplier concerned within 60 days of expiry of the time limit for submission of observations.
15. On the basis of the final audit findings, the Commission or the Agency may take the measures which it considers necessary.
16. In the case of final audit findings made after the payment of the balance, the amount to be recovered shall correspond to the difference between the revised final amount of the grant for the Ordering Party concerned, determined in accordance with Article II.25 of Grant Agreement, and the total amount paid to the Ordering Party concerned under the Grant Agreement for the implementation of its activities.
17. The European Anti-Fraud Office (OLAF) shall have the same rights as the Commission and the Agency, notably right of access, for the purpose of checks and investigations. By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EU) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), 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 Union against fraud and other irregularities.
18. Where appropriate, OLAF findings may lead to recovery by the Agency. They may also lead to criminal prosecution under national law.

19. The European Court of Auditors shall have the same rights as the Agency and the Commission, notably right of access, for the purpose of checks and audits.
