

FRAMEWORK PARTNERSHIP AGREEMENT WITH MULTIPLE PARTNERS

FRAMEWORK AGREEMENT NUMBER – EUSPA/GRANT/03/2021

This Framework Partnership Agreement ("the Framework agreement") is concluded between the following parties:

on the one part:

The **European Union Agency for the Space Programme** (hereinafter referred to as "EUSPA"), represented for the purposes of signature of this Framework partnership agreement by its Executive Director, Rodrigo da Costa,

and

on the other part,

1. 'the coordinator'

[full official name] [ACRONYM]

[official legal status or form]¹

[official registration No]²

[official address in full]

[VAT number],

¹ To be deleted or filled in according to the "Legal Entity" form.

² To be deleted or filled in according to the "Legal Entity" form.

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hereinafter referred to as “the coordinator”, represented for the purposes of signature of this Framework agreement by [function, forename and surname],

and the following other partners:

2. [full official name] — established in [country]]

3. [full official name] — established in [country]]

[idem for each partner]

duly represented for the signature of the Framework agreement by the coordinator by virtue of the mandate[s] included in Annex IV]

Unless otherwise specified, references to ‘partner’ and ‘partners’ include the coordinator.

The parties referred to above

HAVE AGREED

to the Special Conditions (hereinafter referred to as “the Special Conditions”) and the following Annexes:

Annex I Strategic Action Plan³

Annex II General Conditions (hereinafter referred to as “the General Conditions”)

Annex III Model specific grant agreement

Annex IV Mandate[s] provided to the coordinator by the other partner[s]

³ The action plan should include the common objectives of the parties in compliance with the objectives stipulated in the Preamble and the types of activities covered under this Framework partnership, contributing to the achievement of those objectives.

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- Annex V Model technical report: **not applicable**
- Annex VI Model financial statement: **not applicable**
- Annex VII Model terms of reference for the certificate on the financial statements: **not applicable**
- Annex VIII Model terms of reference for the operational verification report: **not applicable**
- Annex IX Model terms of reference for the certificate on the compliance of the cost accounting practices: **not applicable**
- Annex X List of pre-existing intellectual property rights
- Annex XI Call for Proposals EUSPA/GRANT/03/2021

which form an integral part of this Framework agreement.

The provisions set out in the Special Conditions of the Framework agreement, of which the Preamble forms an integral part, shall take precedence over those set out in the Annexes.

The provisions set out in Annex II "General Conditions" shall take precedence over the other Annexes.

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SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT MATTER OF THE FRAMEWORK AGREEMENT, AWARD OF SPECIFIC GRANTS

I.1.1 Subject matter of the Framework agreement

I.1.1.1 The Framework agreement is concluded as part of a long-term cooperation between EUSPA and the partners (hereinafter referred to as "the partnership") with the aim to contribute to the objectives of the Union policy in the field of EUSPA as referred to in the Preamble.

The Framework agreement defines the general rights and obligations of the parties in implementing their partnership.

I.1.1.2 The partnership shall be implemented in compliance with the *Strategic Action plan* set out in Annex I.

I.1.1.3. For the purposes of implementing the partnership EUSPA may award to the partners *specific grants for an action*.

The Framework agreement applies to any specific grant awarded for implementation of the partnership and to the respective specific grant agreements (hereinafter referred to as "Specific agreements") concluded between the parties.

Signature of the Framework agreement does not give rise to any obligation of EUSPA to award specific grants. It does not affect the partners' participation in other calls for proposals for the purposes of award of grants outside the scope of the Action plan set out in Annex I.

I.1.2 Procedure for award of specific grants

Consultation at EUSPA's initiative

EUSPA may consult its partners in order to obtain a proposal for an action in line with the Strategic Action plan set out in Annex I. Such consultation shall take place on the basis of *an invitation to submit a proposal*. The *invitation* shall define the award criteria to be applied. The partner is not obliged to submit a proposal in response to such a consultation.

I.1.3. Conclusion of Specific agreements

Where EUSPA decides to award a specific grant, it proposes to the participating partners to sign a Specific agreement in accordance with the model set out in Annex III. The Specific agreement shall be signed by the authorized representatives of the parties.

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By signing the Specific agreement, the participating partners accept the grant and agree to implement the *action* acting on their own responsibility and in accordance with the terms and conditions laid down in the Framework agreement and the Specific agreement.

Specific agreements shall be signed before the date when the Framework agreement expires. Where the *actions* are carried out after the above-mentioned date, the terms of the Framework agreement continue to apply to the implementation of the Specific agreements governed by the Framework agreement.

ARTICLE I.2 - ENTRY INTO FORCE OF THE FRAMEWORK AGREEMENT AND DURATION OF THE PARTNERSHIP

I.2.1 The Framework agreement enters into force on the date on which the last party signs it.

I.2.2 The Framework agreement is concluded for *[insert number]*⁴ years starting from the date of its entry into force.

ARTICLE I.3 - DATA CONTROLLER

I.3.1 Data controller

The entity acting as a data controller according to Article II.7 is the Head of Security, Operations and Monitoring Department at EUSPA.

ARTICLE I.4 – ADDITIONAL PROVISIONS ON USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS) BY THE EUROPEAN UNION

Without prejudice to Article II.9.3, the European Commission and EUSPA acquire rights to use the results of the *action* and such results will be exploited for non-commercial purposes only, using any of the following modes:

- (a) to promote and create awareness of the achieved project results:
 - i. To prepare and disseminate promotional material in hard copies, in electronic or digital format (e.g. leaflets, presentations, etc.).
 - ii. To advertise through press information services, in hard copies, in electronic or digital format.
 - iii. To reproduce the demonstration and/or presentations after the completion of the project at EUSPA or other institutional premises

⁴ Not more than four years, except in duly justified cases (Article 130(4)c of the Financial Regulation).

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- (b) to showcase and demonstrate the components' and algorithms' capabilities and applications for institutional purposes.
- (c) to edit or re-write in another way the textual deliverables of the action, including shortening, summarising and correcting technical errors in the content;
- (d) to license or sub-license to third parties for the same purposes above mentioned.

The partners shall ensure that the European Union and EUSPA has the rights of use specified in the General Conditions for the whole duration of the intellectual property right[s] concerned.

The right of use as per Article II.9.3. shall be royalty-free, non-exclusive, worldwide and not revocable. EUSPA and any EU institution shall have the same rights defined under Article II.9.3 as the European Union.

ARTICLE I.5 — SPECIAL PROVISIONS ON THE FINANCIAL RESPONSIBILITY FOR RECOVERIES

As an exception to point (c) of the third paragraph of Article II.26.3, the coordinator is jointly and severally liable for repaying any debt under the Agreement up to the *maximum amount of the grant*. The beneficiaries are severally liable up to the amount of their own debt, including any amount unduly paid by EUSPA as a contribution towards the costs incurred by its affiliated entities. The coordinator is also jointly and severally liable for interest on late payment, when applicable.

ARTICLE I.6 – OBLIGATION TO CONCLUDE AN INTERNAL COOPERATION AGREEMENT

The partners must conclude an internal cooperation agreement including provisions on the management, operation and coordination of the partners and the implementation of the *action(s)*.

Article I.7 – ADDITIONAL CONDITIONS FOR CHECKS, AUDITS AND EVALUATION

As an addition to Article II.27.1, the technical and financial checks, audits, and interim and final evaluations can be carried out in person or remotely.

The remote checks, audits and evaluations shall be subject to compliance with the relevant procedures regarding the transfer of confidential information irrespectively of the format of the information.

All requested information shall be provided in a timely manner but not later than 30 (thirty) calendar days after the request was sent to the coordinator, otherwise Article II.27.3(a) will be applied.

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Article I.8 — FINANCIAL SUPPORT TO THIRD PARTIES

By derogation from Article II.12 of this Agreement, the financial support to third parties is not applicable under the Framework Agreement.

[ARTICLE I.XX ENTITIES AFFILIATED TO THE PARTNERS⁵

For the purposes of Specific agreements the following entities are considered as affiliated entities to the partner(s):

- [name of the entity];
- [name of the entity];

[idem for further affiliated entities]]

SIGNATURES

For the coordinator
[function/forename/surname]

For EUSPA
Mr. Rodrigo da Costa
Executive Director

[signature]
Done at [place], [date]

[signature]
Done at [place], [date]

In duplicate in English

⁵ This provision is to be included in the Framework agreement only:

- in case all affiliates enumerated therein will be systematically involved in the implementation of all specific action grants to be awarded under the framework partnership, or
- in case a partner is a sole beneficiary formed by other entities in the sense of article 122(1) FR. In this case the entities composing the partner, and actually implementing the action, are considered as affiliated entities with the right to incur eligible costs.

If a partner would involve different affiliated entities in the implementation of the different specific action grants, the provision regarding the affiliated entities should be included in the model Specific agreement in Annex III and should be deleted from the Framework agreement.

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II. GENERAL CONDITIONS

PART A - LEGAL AND ADMINISTRATIVE PROVISIONS

ARTICLE II.1 – DEFINITIONS

The following definitions apply for the purpose of the Framework agreement and the Specific agreements:

‘Action’: in case of a specific *grant for an action*, the term refers to the set of activities or the project for which the grant is awarded; in case of an *operating grant*, the term refers to the work programme for which the specific grant is awarded;

‘Breach of obligations’: failure by the partner to fulfil one or more of its contractual obligations;

‘Confidential information or document’: any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Framework agreement or a Specific agreement that any of the parties has identified in writing as confidential. It does not include information that is publicly available;

‘Conflict of interests’: a situation where the impartial and objective implementation of the Framework agreement or a Specific agreement by the partner is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with EUSPA or any third party related to the subject matter of the Framework agreement or a Specific agreement;

‘Direct costs’: those specific costs which are directly linked to the implementation of the action and can therefore be attributed directly to it. They may not include any indirect costs;

‘EU Restrictive Measures’: Shall mean the restrictive measures adopted pursuant to the Treaty on European Union (TEU) or to the Treaty on the Functioning of the European Union (TFEU)

‘Force majeure’: any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the Framework agreement or a Specific agreement, which is not attributable to error or negligence on their part or on the part of the subcontractors affiliated entities or third parties in receipt of financial support and which proves to be inevitable despite their exercising due diligence. The following cannot be invoked as *force majeure*: labour disputes, strikes, financial difficulties or any default of a service, defect in equipment or materials or delays in making them available, unless they stem directly from a relevant case of *force majeure*;

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‘Formal notification’: form of communication between the parties made in writing by mail or electronic mail which provides the sender with compelling evidence that the message was delivered to the specified recipient;

‘Fraud’: any intentional act or omission affecting the Union’s financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents, to non-disclosure of information in violation of a specific obligation;

‘Grave professional misconduct’: a violation of applicable laws or regulations or ethical standards of the profession to which a person or entity belongs, or any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence;

‘Implementation period’: the period of implementation of the Framework agreement as specified in Article 1.2.2 or the period of implementation of the activities forming part of the action, as specified in Article 2.2 of the Specific agreement;

‘Indirect costs’: those costs which are not specific costs directly linked to the implementation of the action and which therefore cannot be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs;

‘Institutional purposes’: any non-commercial purpose related to the development, operation, maintenance and service provision of the European Union Space Programmes.

‘Intellectual Property Rights (IPR)’: have the meaning stated in Article 2 of the Convention establishing the World Intellectual Property Organisation, done in Stockholm on 14 July 1967;

‘Irregularity’: any infringement of a provision of Union law resulting from an act or omission by the partner, which has or would have the effect of prejudicing the Union’s budget;

‘Maximum amount of the grant’: the maximum EU contribution to the action, as defined in Article 3.1 of the Specific agreement;

‘Pre-existing material’: any materials, document, technology or know-how which exists prior to the partner using it for the production of a result in the implementation of the action;

‘Pre-existing right’: any industrial and intellectual property right on pre-existing material; it may consist in a right of ownership, a licence right and/or a right of use belonging to the partner or any other third parties;

‘Related person’: any person who has the power to represent the partner or to take decisions on its behalf;

‘Restricted Person’: Shall mean any entity, individual or group of individuals designated by the EU as subject to the EU Restrictive Measures in the lists provided at www.sanctionsmap.eu;

‘Results’: shall mean any tangible or intangible output, such as data, knowledge and information whatever their form or nature, whether or not they can be protected, stemming from the execution

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of the Agreement which are generated by the beneficiary, as well as any attached rights and including *IPRs*. Where *IPR* is concerned, this definition comprises all phases and stages of development, as well as improvements, adaptations and/or modifications of and add-ons to the subject-matter of *Union IPR* made by the beneficiary in the frame of this Agreement;

‘Starting date’: the date on which the implementation of the action starts as provided for in Article 2.2 of the Specific agreement;

‘Subcontract’: a procurement contract within the meaning of Article II.10, which covers the implementation by a third party of tasks forming part of the action as described in Annex I of the Specific agreement;

‘Substantial error’: any infringement of a provision of the Framework agreement or a Specific agreement resulting from an act or omission, which causes or might cause a loss to the Union’s budget;

‘Union IPR’: means the IPRs listed in the Galileo OS SIS ICD available at https://www.gsc-europa.eu/system/files/galileo_documents/Galileo-OS-SIS-ICD.pdf, as amended/integrated from time to time.

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ARTICLE II.2 – GENERAL OBLIGATIONS AND ROLES OF THE PARTNERS

II.2.1 General obligations and role of the partners

The partners:

- (a) are jointly and severally liable for carrying out the *actions*, for which specific grants were awarded, in accordance with the Framework agreement and the Specific agreements. If a partner fails to implement its part of the *action*, the other partners become responsible for implementing this part (without increasing the *maximum amount of the grant*);
- (b) must comply jointly or individually with any legal obligations they are bound by under applicable EU, international and national law;
- (c) must make appropriate internal arrangements to implement properly any *action* for which a specific grant could be awarded. The arrangements must be consistent with the terms of the Framework agreement. If provided for in the Special Conditions, those arrangements must take the form of an internal cooperation agreement between the partners.

II.2.2 General obligations and role of each partner

Each partner shall:

- (a) inform the coordinator immediately of any events or circumstances of which the partner is aware, that are likely to affect or delay the implementation of an *action*;
- (b) shall inform the coordinator immediately:
 - (i) of any change in its legal, financial, technical, organisational or ownership situation and of any change in its name, address or legal representative;
 - (ii) of any change in the legal, financial, technical, organisational or ownership situation of its affiliated entities and of any change in their name, address or legal representative;
 - (iii) of any change of circumstances of itself or any of its affiliated entities in relation to the EU Restrictive Measures.
- (c) submit in due time to the coordinator:
 - (i) the data needed to draw up the reports, financial statements and other documents provided for in the Framework agreement or the Specific agreement;

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- (ii) all the necessary documents required for audits, checks or evaluations as provided for in Article II.27.
- (iii) any other information to be provided to the Commission under the Framework agreement or the Specific agreement, except if those agreements require such information to be submitted directly by the partner.

II.2.3 General obligations and role of the coordinator

The coordinator:

- (a) must monitor the implementation of any *action* for which a specific grant was awarded in order to make sure that the *action* is implemented in accordance with the terms of the Framework agreement and the Specific agreement concerned;
- (b) is the intermediary for all communications between the partners and the Commission, except if provided otherwise in the Framework agreement and the Specific agreement. In particular, the coordinator:
 - (i) must immediately inform EUSPA:
 - of any change in the name, address, legal representative of any of the partners or of their affiliated entities;
 - of any change in the legal, financial, technical, organisational or ownership situation of any of the partners or of their affiliated entities;
 - of any events or circumstances of which the coordinator is aware, that are likely to affect or delay the implementation of an *action*, of which the coordinator is aware.
 - of any change of circumstances of itself or any of the partners and their affiliated entities in relation to the EU Restrictive Measures. In such case, EUSPA shall determine remedial measures in accordance with the applicable legal framework. These measures, which the beneficiary shall immediately and at first instance implement, may include but shall not be limited to the termination, as per Article II.17 below, suspension of the agreement according to article II.16 below, the reallocation of the grant, and the recovery of any financial accommodation provided to the Restricted Person.
 - (ii) is responsible for supplying EUSPA with all documents and information required under the Framework agreement and the Specific agreement, except if provided otherwise in those agreements. If information is required from the other partners, the coordinator is

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responsible for obtaining and verifying this information before passing it on to the Commission;

- (c) must make the appropriate arrangements for providing any financial guarantees required under the Framework agreement or the Specific agreement;
- (d) must draw up the requests for payment in accordance with the Framework agreement and the Specific agreement;
- (e) if it is designated as the sole recipient of payments on behalf of all of the partners, it must ensure that all the appropriate payments are made to the other partners without unjustified delay;
- (f) is responsible for providing all the necessary documents required for checks and audits initiated before the payment of the balance or documents required for evaluation as provided for in Article II.27.

The coordinator may not subcontract any part of its tasks to the other partners or to any other party.

ARTICLE II.3 – COMMUNICATIONS BETWEEN THE PARTIES

II.3.1 Form and means of communications

Any communication relating to the Framework agreement or a Specific agreement or to their implementation shall:

- be made in writing (in paper or electronic form);
- bear the number of the agreement concerned; and
- be made using the communication details identified in Article 7 of the Specific agreement.

If a party requests written confirmation of an electronic communication within a reasonable time, the sender shall provide an original signed paper version of the communication as soon as possible.

II.3.2 Date of communications

Any communication is considered to have been made when the receiving party receives it, unless the Framework agreement or the Specific agreement states that communication is considered to have been made on the date when the communication was sent.

Email is considered to have been received by the receiving party on the day of dispatch of that e-mail, provided that it is sent to the email address indicated in Article 7 of the Specific agreement. The sending party shall be able to prove the date of dispatch. If the sending party receives a non-delivery report, it shall make every effort to ensure that the other party actually receives the communication

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by email or mail. In such a case, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

Mail sent to EUSPA using the postal or courier services is considered to have been received by EUSPA on the date on which it is registered by the department identified in Article 7.1 of the Specific agreement.

Formal notifications are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the message was delivered to the specified recipient.

ARTICLE II.4 – LIABILITY FOR DAMAGES

II.4.1 EUSPA shall not be held liable for any damage caused or sustained by the partner, including any damage caused to third parties as a consequence of or during the implementation of an action.

II.4.2 Except in cases of *force majeure*, the partner shall compensate EUSPA for any damage it sustains as a result of the implementation of an action or because an *action* was not implemented in full compliance with the Framework agreement or the Specific agreement.

ARTICLE II.5 - CONFLICT OF INTERESTS

II.5.1 The partners shall take all necessary measures to prevent any situation of *conflict of interests*.

II.5.2 The partners shall inform EUSPA without delay of any situation constituting or likely to lead to a *conflict of interests*. They shall take immediately all the necessary steps to rectify this situation.

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

ARTICLE II.6 – CONFIDENTIALITY

II.6.1 During implementation of the *action* and for five years after the payment of the balance, the parties shall treat with confidentiality any *confidential information and documents*.

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II.6.2 The parties may only use *confidential information and documents* for a reason other than to fulfil their obligations under the Framework agreement and the Specific agreement if they have first obtained the prior written agreement of the other party.

II.6.3 The confidentiality obligations do not apply if:

- (a) the disclosing party agrees to release the other party from those obligations;
- (a) the *confidential information or documents* become public through other means than a breach of the confidentiality obligations;
- (b) EUSPA discloses the confidential information to third entity authorized by EUSPA in order to carry out technical and financial checks, audits and evaluation in relation to the proper implementation of the action and compliance with the obligations under the Agreement;
- (c) the disclosure of the *confidential information or documents* is required by law.

ARTICLE II.7 – PROCESSING OF PERSONAL DATA

II.7.1 Any personal data included in the Framework Agreement or the Specific Agreements shall be processed in accordance with the applicable rules on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data⁶. Such data shall be processed by the data controller (EUSPA) and the data processors (the beneficiaries) solely for the purposes of the performance, management and monitoring of the Framework Agreement or the Specific Agreements without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of Union law.

II.7.2 The following categories of personal data are expected to be processed by the data controller: contact details of the beneficiaries’ personnel or its contractors that may be included in deliverables, such as name and last name, gender, telephone number, email address, postal address, organisation and position within organisation. The provision of the aforementioned data is a contractual requirement.

II.7.3 The recipients of the personal data mentioned under Article II.7.2 shall be (1) a limited number of staff of EUSPA managing the Framework Agreement or the Specific Agreements, (2) a limited number of staff of EUSPA contractors assisting EUSPA staff in the management of the Framework Agreement or the Specific Agreements, (3) a limited number of staff of EUSPA contractors providing hosting services for EUSPA servers. The personal data will be stored in the premises of the aforementioned recipients, all of which are located within Union territory,

⁶ Currently Regulation (EU) 2018/1725.

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and will be retained for up to 7 (seven) years after the expiry of the present Framework Agreement for audit and discharge purposes.

- II.7.4** The partners shall have the right to request from the data controller access to, rectification or erasure of their personal data, restriction of processing, the right to object to the processing and the right to data portability, provided that there are grounds for the exercise of any of these rights, as per the applicable rules.
- II.7.5** The partners shall have right of recourse at any time to the European Data Protection Supervisor.
- II.7.6** If, throughout the duration of the Framework Agreement or the Specific Agreements, the partners are required to process any personal data (acting as data processors), the partners shall:
- i. inform in writing without delay the data controller and act only on documented instructions from the data controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights;
 - ii. with regard to transfers of personal data to a country outside the European Union or an international organisation, act only on documented instructions from the data controller, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the data controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
 - iii. ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - iv. without prejudice to Article II.7.8, take all necessary measures to ensure the security of the processing of personal data, as may be instructed by the controller;
 - v. not engage another processor or sub-processor without prior specific written authorisation of the controller;
 - vi. taking into account the nature of the processing, assist the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in the applicable rules;
 - vii. assist the controller for the fulfilment of its obligations to
 - a. ensure compliance with its obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users
 - b. notify a personal data breach to the European Data Protection Supervisor
 - c. communicate a personal data breach without undue delay to the data subject, where applicable
 - d. carry out data protection impact assessments and prior consultations as necessary
 - viii. notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the contractor becomes aware of the breach. In such cases, the contractor shall provide the controller with at least the following information:

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- a. nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
 - b. likely consequences of the breach;
 - c. measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.
- ix. maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for exercising rights of people whose personal data is processed and requests for access to personal data by third parties;
- x. delete all the personal data after the end of the provision of services relating to processing;
- xi. make available to the data controller all information necessary to demonstrate compliance with the obligations laid down in this Article and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller

II.7.7 The partners shall grant personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the Framework Agreement or the Specific Agreements.

II.7.8 The partners shall adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to ensure:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- (e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

ARTICLE II.8 – VISIBILITY OF UNION FUNDING

II.8.1 Information on Union funding and use of European Union emblem

Unless EUSPA requests or agrees otherwise, any communication or publication made by the partners that relates to an *action*, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form etc.), shall

- (a) indicate that the *action* has received funding from the Union; and
- (b) display the European Union emblem.

Partner Initials	EUSPA Initials

When displayed in association with another logo, the European Union emblem shall have appropriate prominence.

The obligation to display the European Union emblem does not confer on the partner a right of exclusive use. The partner may not appropriate the European Union emblem or any similar trademark or logo, either by registration or by any other means.

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the partners may use the European Union emblem without first obtaining permission from EUSPA.

II.8.2 Disclaimers excluding EUSPA responsibility

Any communication or publication that relates to an *action*, made by the partners in any form and using any means, shall indicate:

- (a) that it reflects only the author's view; and
- (b) that EUSPA is not responsible for any use that may be made of the information it contains.

ARTICLE II.9 – PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)

II.9.1 Ownership of the results by the partners

The partners retains ownership of the results of the *action*, including industrial and intellectual property rights, and of the reports and other documents relating to it, unless stipulated otherwise in the Specific agreement.

II.9.2 Pre-existing rights

On written request of the European Commission/EUSPA specifying which of the results the Commission/EUSPA intends to use, the partner shall:

- (a) establish a list specifying all *pre-existing rights* included in those *results*; and
- (b) provide this list to the Commission/EUSPA at the latest with the request for payment of the balance.

The partners shall ensure that it or their affiliated entities have all the rights to use any *pre-existing rights* during the implementation of the Specific agreement.

II.9.3 Rights of use of the results and of pre-existing rights by the Union

Partner Initials	EUSPA Initials

The partners grant the European Commission and EUSPA the following rights to use the *results* of an *action*:

- (a) for its own purposes and in particular to make available to persons working for EUSPA, the European Commission, other Union institutions, agencies and bodies and to Member States' institutions, as well as to copy and reproduce in whole or in part and in an unlimited number of copies;
- (b) reproduction: the right to authorise direct or indirect, temporary or permanent reproduction of the results by any means (mechanical, digital or other) and in any form, in whole or in part;
- (c) communication to the public: the right to authorise any display performance or communication to the public, by wire or wireless means, including making the results available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them; this right also includes communication and broadcasting by cable or by satellite;
- (d) distribution: the right to authorise any form of distribution of results or copies of the *results* to the public;
- (e) adaptation: the right to modify the *results*;
- (f) translation;
- (g) the right to store and archive the results in line with the document management rules applicable to EUSPA, including digitisation or converting the format for preservation or new use purposes;
- (h) where the *results* are documents, the right to authorise the reuse of the documents in conformity with Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents if that Decision is applicable and if the documents fall within its scope and are not excluded by any of its provisions. For the sake of this provision, the terms 'reuse' and 'document' have the meanings given to them by Decision 2011/833/EU.

The above rights of use may be further specified in the Specific agreement.

Additional rights of use for the European Union may be provided for in the Specific agreement.

The partners shall ensure that the European Union has the right to use any *pre-existing rights* included in the results of an *action*. The *pre-existing rights* shall be used for the same purposes and under the same conditions as applicable to the rights of use of the results of the *action*, unless specified otherwise in the Specific agreement.

Information about the copyright owner shall be inserted in cases where the result is divulged by the European Union. The copyright information shall read: '© — year — name of the copyright owner. All rights reserved. Licenced to the European Union under conditions.'

If the partners grant rights of use to EUSPA, this does not affect their confidentiality obligations under Article II.6 or the partners' obligations under Article II.2.

Partner Initials	EUSPA Initials

ARTICLE II.10 – AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE ACTION

II.10.1 If the implementation of an *action* requires the partners to procure goods, works or services, they 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, it shall avoid any *conflict of interests*.

The partners shall ensure that Article II.27 is also applicable to the partners' contractors, in particular that EUSPA, the Commission, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.27 towards the contractors.

II.10.2 The partners that are "contracting authorities" within the meaning of Directive 2014/24/EU⁷ or "acting authorities" within the meaning of Directive 2014/25/EU⁸ shall comply with the applicable national public procurement rules.

The partners shall ensure that the conditions applicable to them under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractor.

II.10.3 The partners remain solely responsible for carrying out the *action* concerned and for compliance with the Framework agreement and the Specific agreement.

II.10.4 If the partners breach their obligations under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (c), (d) and (e).

If the partners breach their obligations under Article II.10.2 the grant may be reduced in accordance with Article II.25.4.

ARTICLE II.11 – SUBCONTRACTING OF TASKS FORMING PART OF AN ACTION

II.11.1 The partners may subcontract tasks forming part of an *action*. If they do so, they shall ensure that, in addition to the conditions specified in Article II.10, the following conditions are also complied with:

- (a) subcontracting does not cover core tasks of the *action*;
- (b) recourse to subcontracting is justified because of the nature of the *action* and what is necessary for its implementation;

⁷ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

⁸ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

Partner Initials	EUSPA Initials

- (c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex II of the Specific agreement;
- (d) any recourse to subcontracting, if not provided for in Annex I of the Specific agreement, is communicated by the coordinator and approved by EUSPA. EUSPA may grant approval:
 - (i) before any recourse to subcontracting, if the partners request an amendment as provided for in Article II.13; or
 - (ii) after recourse to subcontracting if the subcontracting:
 - is specifically justified in the interim or final technical report referred to in Articles 4.3 and 4.4 of the Specific agreement; and
 - does not entail changes to the Framework agreement or the Specific agreement which would call into question the decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants;
- (e) the partners ensure that the conditions applicable to them under Article II.8 are also applicable to the subcontractors.

II.11.2 If the partners breach their obligations under Article II.11.1 (a), (b), (c) or (d), the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (f).

If the partners breach their obligation under Article II.11.1 (e) the grant may be reduced in accordance with Article II.25.4.

ARTICLE II.12 - FINANCIAL SUPPORT TO THIRD PARTIES

II.12.1 If, while implementing an *action*, the partners have to give financial support to third parties, the partners shall give such financial support in accordance with the conditions specified in Annex I of the Specific agreement. Under those conditions, the following information shall be stated at least:

- (a) the maximum amount of financial support. This amount may not exceed EUR 60 000 for each third party except if achieving the objective of the *action* as specified in Annex I of the Specific Agreement would otherwise be impossible or overly difficult;
- (b) the criteria for determining the exact amount of the financial support;
- (c) the different types of activity that may receive financial support, on the basis of a fixed list;

Partner Initials	EUSPA Initials

- (d) the persons or categories of persons which may receive financial support;
- (e) the criteria for giving the financial support.

II.12.2 As an exception to Article II.12.1, if the financial support takes the form of a prize, the partners shall give such financial support in accordance with the conditions specified in Annex I of the Specific agreement. Under those conditions, the following information shall at least be stated:

- (a) the eligibility and award criteria;
- (b) the amount of the prize;
- (c) the payment arrangements.

II.12.3 The partners shall ensure that the conditions applicable to them under Articles II.4, II.5, II.6, II.8, II.9 and II.27 are also applicable to the third parties receiving financial support.

ARTICLE II.13 – AMENDMENTS TO THE FRAMEWORK AGREEMENT AND THE SPECIFIC AGREEMENTS

II.13.1 Any amendment to the Framework agreement or a Specific agreement shall be made in writing.

II.13.2 An amendment shall not have the purpose or the effect of making changes to the Framework agreement or a Specific agreement which would call into question the decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants.

II.13.3 Any request for amendment shall:

- a) be duly justified;
- b) be accompanied by appropriate supporting documents; and
- c) be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the *implementation period* of the Framework agreement or the Specific agreement.

Point (c) shall not apply in cases duly substantiated by the party requesting the amendment if the other party agrees.

II.13.4 A request for amendment on behalf of the partners must be submitted by the coordinator. If a change of coordinator is requested without its agreement, the request must be submitted by all other partners and must be accompanied by the opinion of the coordinator or proof that this opinion has been requested in writing.

II.13.5 Amendments enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

Partner Initials	EUSPA Initials

Amendments take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

ARTICLE II.14 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES

II.14.1 The partners shall not assign any of their claims for payment against EUSPA to any third party, except if approved by EUSPA on the basis of a reasoned written request by the coordinator made on behalf of the partners.

If EUSPA does not accept the assignment or the terms of it are not complied with, the assignment has no effect on it.

II.14.2 In no circumstances may an assignment release the partners from their obligations towards EUSPA.

ARTICLE II.15 – FORCE MAJEURE

II.15.1 A party faced with *force majeure* shall send a *formal notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.

II.15.2 The parties shall take the necessary measures to limit any damage due to *force majeure*. They shall do their best to resume the implementation of the *action* as soon as possible.

II.15.3 The party faced with *force majeure* shall not be considered in breach of its obligations under the Framework agreement or a Specific agreement if it has been prevented from fulfilling them by *force majeure*.

ARTICLE II.16 – SUSPENSION OF THE IMPLEMENTATION

II.16.1 Suspension of the implementation of an *action* by the partner

The coordinator, on behalf of the partners, may suspend the implementation of an *action* or any part of it, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*.

The coordinator shall immediately inform EUSPA, stating:

- (a) the reasons for suspension, including details about the date or period when the exceptional circumstances occurred; and

Partner Initials	EUSPA Initials

- (b) the expected date of resumption.

Once the circumstances allow the partners to resume implementing the *action*, the coordinator shall inform EUSPA immediately and present a request for amendment of the Framework agreement or a Specific agreement as provided for in Article II.16.3.2. This obligation does not apply if the Framework agreement or Specific agreement of the participation of a partner is terminated in accordance with Articles II.17.1, II.17.2.1 or points (c) or (d) of Article II.17.2.2.

II.16.2 Suspension of implementation by EUSPA

II.16.2.1 Grounds for suspension

EUSPA may suspend the implementation of an *action* or any part thereof or the implementation of the Framework agreement:

- (a) if EUSPA has evidence that a partner has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Framework agreement or the Specific agreement;
- (b) if EUSPA has evidence that a partner has committed systemic or recurrent *irregularities, fraud or serious breach of obligations* in other grants funded by the Union or the European Atomic Energy Community ("Euratom") awarded to the partner under similar conditions, and the *irregularities, fraud or breach of obligations* have a material impact on one or more specific grants awarded under the Framework agreement; or
- (c) if EUSPA suspects *irregularities, fraud or breach of obligations* committed by the partner in the award procedure or while implementing the Framework agreement or the Specific agreement and needs to verify whether they have actually occurred; or
- (d) if, due to a change of circumstances, a partner, or its affiliated entity or any entity having a role in the implementation of the Framework agreement or the Specific agreement do not comply anymore with the EU Restrictive Measures, and if the partner or its affiliated entity has not promptly taken the necessary actions upon EUSPA request.

The implementation of each action for which a specific grant has been awarded is deemed automatically suspended from the date on which the suspension of the implementation of the Framework agreement takes effect.

II.16.2.2 Procedure for suspension

Step 1 — Before suspending implementation of an *action*, EUSPA shall send a *formal notification* to the coordinator:

- (a) informing it of:
 - (i) its intention to suspend the implementation;
 - (ii) the reasons for suspension;

Partner Initials	EUSPA Initials

(iii) the necessary conditions for resuming the implementation of the Framework agreement or of the *action* in the cases referred to in points (a) and (b) of Article II.16.2.1; and

(b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

Step 2 — If EUSPA does not receive observations or decides to pursue the procedure despite the observations it has received, it shall send a *formal notification* to the coordinator informing it of:

(a) the suspension of the implementation;

(b) the reasons for suspension; and

(c) the final conditions for resuming the implementation of the Framework agreement or of the *action* in the cases referred to in points (a) and (b) of Article II.16.2.1; or

(d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.16.2.1.

The coordinator shall immediately inform the other partners of the suspension. The suspension takes effect on the day the *formal notification* is received by the coordinator or on a later date specified in the *formal notification*.

Otherwise, EUSPA shall send a *formal notification* to the coordinator informing it that it is not continuing the suspension procedure.

II.16.2.3 Resuming implementation

In order to resume the implementation, the partners shall meet the notified conditions as soon as possible and shall inform EUSPA of any progress made.

If the conditions for resuming the implementation of the Framework agreement or the Specific agreements are met or the necessary verifications are carried out, EUSPA shall send a *formal notification* to the coordinator:

(a) informing it that the conditions for lifting the suspension are met; and

(b) requiring it to present a request for amendment of the agreement concerned as provided for in Article II.16.3.2. This obligation does not apply if the Framework agreement or the Specific agreement is terminated in accordance with Article II.17.1 or points (b), (f) or (g) of Article II.17.2.2.

II.16.3 Effects of the suspension

II.16.3.1 If the Framework agreement is not terminated, it may be adapted to the new implementing conditions in accordance with Article II.13.

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The suspension of the implementation of the Framework agreement and of all automatically suspended actions in accordance with the last subparagraph of Article II.16.2.1 is deemed lifted as from the date of the notification by EUSPA referred to in point (a) of Article II.16.2.3. In this case Article II.16.3.2 does not apply.

II.16.3.2 If the implementation of the suspended *action* can be resumed and the Specific agreement has not been terminated, an amendment to the Specific agreement shall be made in accordance with Article II.13 in order to:

- (a) set the date on which the *action* is to be resumed;
- (b) extend the duration of the *action*; and
- (c) make other changes necessary to adapt the *action* to the new situation.

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

II.16.3.3 Costs incurred during the period of suspension that relate to the implementation of the suspended *action* or the suspended part of it may not be reimbursed or covered by the grant.

Suspending implementation of an *action* or implementation of the Framework agreement does not affect EUSPA’s right to terminate the concerned agreement in accordance with Article II.17.2, reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26.

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

**ARTICLE II.17 – TERMINATION OF THE FRAMEWORK AGREEMENT OR THE SPECIFIC AGREEMENT.
TERMINATION OF THE PARTICIPATION OF ONE OR MORE PARTNERS**

II.17.1 Termination by the partners

II.17.1.1 Termination of the Framework agreement

The partners may terminate the Framework agreement without specifying the reasons for termination.

The coordinator shall send a *formal notification* of termination to EUSPA stating the date on which the termination takes effect. This date shall be set after the *formal notification*.

II.17.1.2 Termination of a Specific agreement

The partners may terminate a Specific agreement.

Partner Initials	EUSPA Initials

The coordinator shall send a *formal notification* of termination to EUSPA, stating:

- (a) the reasons for termination; and
- (b) the date on which the termination takes effect. This date shall be set after the *formal notification*.

If the coordinator does not state the reasons for the termination or if EUSPA considers that the reasons do not justify termination, the Specific agreement is considered to have been terminated improperly. The termination takes effect on the day specified in the *formal notification*.

II.17.1.3 Termination of the participation of one or more partners by the coordinator

The participation of one or more partners in the Framework agreement or in the Specific agreement may be terminated by the coordinator at the request of the partner concerned or on behalf of the other partners.

The coordinator must send a *formal notification* of termination to EUSPA and inform the partner concerned by termination.

If the coordinator's participation is terminated without its agreement, the *formal notification* must be submitted by another partner (acting on behalf of the other partners).

The *formal notification* must include:

- (a) the reasons for termination;
- (b) the opinion of the partner concerned by termination (or proof that this opinion has been requested in writing);
- (c) the date on which the termination takes effect. This date must be set after the *formal notification*; and
- (d) a request for amendment as provided for in Article II.17.3.2(a).

If the coordinator or partner does not state the reasons for the termination or if EUSPA considers that the reasons do not justify termination, the participation will be considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

II.17.2 Termination by EUSPA

II.17.2.1 Termination of the Framework agreement

Partner Initials	EUSPA Initials

EUSPA may terminate the Framework agreement without specifying the reasons for termination.

EUSPA shall send a *formal notification* of termination to the coordinator specifying the date on which the termination takes effect. The notification shall be sent before the termination is due to take effect.

II.17.2.2 Termination of the Framework agreement or a Specific agreement or of the participation of one or more partners based on explicit grounds

EUSPA may terminate the Framework agreement, a Specific agreement or the participation of one or more partners in these agreements, if:

- (a) a change to the partner’s legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Framework agreement or the Specific agreement substantially or calls into question EUSPA’s decision to establish the framework partnership or to award the specific grant, or a change regarding the exclusion situations listed in Article 136 of Regulation (EU) 2018/1046, that calls into question the decision to award the grant;
- (b) following the termination of the participation of any one or several partners, the necessary modifications to the Framework agreement would call into question the decision to establish the framework partnership or award the specific grant or would result in unequal treatment of applicants;
- (c) the partners do not implement an action as described in Annex I of the Specific agreement or a partner fails to comply with another substantial obligation incumbent on it under the Framework agreement or the Specific agreement;
- (d) the implementation of an *action* is prevented or suspended due to *force majeure* or exceptional circumstances and either:
 - (i) resumption is impossible; or
 - (ii) the necessary changes to the Framework agreement or the Specific agreement would call into question the decision to establish the framework partnership or to award the specific grant or be contrary to the equal treatment of applicants;
- (e) a partner or a natural or legal person that assumes unlimited liability for the debts of the partner:
 - (i) is declared bankrupt, is subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a Court, has entered into an agreement with creditors, has suspended business activities or is in any analogous situation arising from a similar procedure provided for under the Union or national law;
 - (ii) is in *breach of its obligations* relating to the payment of taxes or social security contributions in accordance with the applicable law;
- (f) the partner or any *related person* or any natural person who is essential for the award or for the implementation of the Agreement has committed:
 - (i) *grave professional misconduct* proven by any means;
 - (ii) *fraud*;
 - (iii) *corruption*;

Partner Initials	EUSPA Initials

- (iv) conduct related to criminal organisations;
 - (v) money laundering;
 - (vi) terrorism-related crimes (including terrorism financing);
 - (vii) child labour or other offences concerning trafficking of human beings;
- (g) EUSPA has evidence that the partner or any *related person* or any natural person who is essential for the award or for the implementation of the Framework Partnership agreement or the Specific agreement has committed irregularities, fraud or *breach of obligations* in the award procedure or while implementing the Framework agreement or any Specific agreement, including if that partner or related person or natural person has submitted false information or failed to provide required information;
- (h) EUSPA has evidence that a partner has committed systemic or recurrent irregularities, fraud or serious breach of obligations in other Union or Euratom grants awarded to it under similar conditions and such irregularities, fraud or breach of obligations have a material impact on a specific grant awarded under the Framework agreement;
- (i) the partner or any related person or any natural person who is essential for the award or for the implementation of the Framework Partnership agreement or the Specific Agreement has created an entity under a different jurisdiction with the intend to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business;
- (j) the partner or any related person has been created with the intend referred to in point (h) or
- (k) EUSPA has sent a partner, through the coordinator, a *formal notification* asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (d) to (i) and the partner has failed to request an amendment ending the participation of the entity and reallocating its tasks.
- (l) due to a change of circumstances, the partner or any related person or any natural person who is essential for the award or for the implementation of the Framework Partnership agreement or the Specific Agreement do not comply anymore with the EU Restrictive Measures and if the partner has not promptly taken the necessary actions upon EUSPA request;

II.17.2.3 Procedure for termination based on explicit grounds

Step 1 Before terminating the Framework agreement or a Specific agreement or the participation of one or more partners on one of the grounds specified in Article II.17.2.2, EUSPA shall send a *formal notification* to the coordinator:

- (a) informing it of:
 - (i) its intention to terminate;
 - (ii) the reasons for termination; and

Partner Initials	EUSPA Initials

- (b) requiring it, within 45 calendar days of receiving the formal notification:
 - (i) to submit observations; and
 - (ii) in the case of point (c) of Article II.17.2.2, to inform EUSPA of the measures to ensure compliance with the obligations under the Framework agreement or the Specific agreement concerned.

Step 2 If EUSPA does not receive observations or decides to pursue the procedure despite the observations it has received, it will send a *formal notification* to the coordinator informing it of the termination and the date on which it takes effect. The coordinator shall immediately inform the other partners of the termination.

Otherwise, EUSPA shall send a *formal notification* to the coordinator informing it that the termination procedure is not continued.

The termination takes effect:

- (a) for terminations under points (a), (b), (c) and (e) of Article II.17.2.2: on the day specified in the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above);
- (b) for terminations under points (d), (f) to (k) of Article II.17.2.2: on the day after the partner receives the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above).

II.17.3 Effects of termination

II.17.3.1 Effects of terminating the Framework agreement or a Specific agreement

Where the Framework agreement is terminated by the partners in accordance with Article II.17.1.1 or by EUSPA in accordance with Articles II.17.2.1 or II.17.2.2:

- a) the partners shall complete the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect;
- b) EUSPA shall honour its obligations arising from the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect.

Within 60 calendar days from the day on which the termination of a Specific agreement takes effect, the coordinator shall submit a request for payment of the balance as provided for in Article 4.4 of the Specific agreement.

Partner Initials	EUSPA Initials

If EUSPA does not receive the request for payment of the balance by the above deadline, only costs which are included in an approved technical report and, where relevant, in an approved financial statement, are reimbursed or covered by the specific grant.

If the Specific agreement is terminated by EUSPA because the coordinator has breached its obligation to submit the request for payment, the coordinator may not submit any request for payment after termination. In that case the third subparagraph applies.

EUSPA calculates the final grant amount as referred to in Article II.25 and the balance as referred to in Article 5.4 of the Specific agreement on the basis of the reports submitted. Only activities undertaken before the date when the termination takes effect or the end date of the *implementation period* as specified in Article 2.2 of the Specific agreement, whichever is the earliest, shall be taken into account.

Where the grant takes the form of reimbursement of costs actually incurred as provided for in Article 3.2(i) of the Specific Agreement, only costs incurred before termination takes effect are reimbursed or covered by the specific grant. Costs relating to contracts due for execution only after termination are not taken into account and are not reimbursed or covered by the grant.

EUSPA may reduce a specific grant in accordance with Article II.25.4 in case of:

- (a) improper termination of the Specific agreement by the coordinator within the meaning of Article II.17.1.2; or
- (b) termination of the Specific agreement by EUSPA on any of the grounds set out in points (c), (f), (g), (h) and (k) of Article II.17.2.2.

Neither party may claim damages on the grounds that the other party terminated the Framework agreement or a Specific agreement.

After termination, the partners' obligations continue to apply, in particular those under Article 4 of the Specific agreement, Articles II.6, II.8, II.9, II.14, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions or the Specific agreement concerned.

II.17.3.2 Effects of terminating the participation of one or more partners in the Framework agreement or in a Specific agreement

- a) The coordinator must submit a request for amendment including, where necessary:
 - (i) a proposal to reallocate the tasks of the partner or partners concerned by the termination; and
 - (ii) the addition of one or more new partners to succeed the partner or partners concerned in all their rights and obligations under the Framework agreement and the concerned Specific agreements.

If EUSPA terminates the participation of a partner, the coordinator must submit the request for amendment within 60 calendar days from the day on which the termination takes effect.

Partner Initials	EUSPA Initials

If the coordinator terminates the participation of a partner, the request for amendment must be included in the *formal notification* of termination referred to in Article II.17.1.3.

If termination takes effect after the end of the *implementation period* of the Framework agreement and all the Specific agreements, no request for amendment must be provided unless the partner concerned is the coordinator. In this case, the request for amendment must propose a new coordinator.

If the request for amendment is rejected by EUSPA, the Framework agreement and the Specific agreements may be terminated in accordance with Article II.17.2.2(b). The request for amendment may be rejected if it calls into question the decision to establish the framework partnership or to award a specific grant or is contrary to the equal treatment of applicants.

b) The partner whose participation in a Specific agreement is terminated shall submit to the coordinator:

- (i) a technical report; and
- (ii) a financial statement covering the period from the end of the last reporting period to the date when termination takes effect.

The coordinator shall include this information in the payment request for the next reporting period.

Only costs incurred by the partner concerned before termination takes effect are reimbursed or covered by the specific grant. Costs relating to contracts due for execution only after termination are not reimbursed or covered by the specific grant.

EUSPA may reduce a specific grant in accordance with Article II.25.4. in case of:

- (a) improper termination of the participation of a partner by the coordinator within the meaning of Article II.17.1.3 or
- (b) termination of the participation of a partner by EUSPA on any of the grounds set out in points (c), (f), (g), (h) or (k) of Article II.17.2.2.

Neither party may claim damages on the grounds that the other party terminated the participation of a partner.

After termination, the concerned partner's obligations continue to apply, in particular those under Article 4 of the Specific agreement, Articles II.6, II.8, II.9, II.14, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions or the Specific agreement concerned.

Where the participation of one or more partners in the Framework agreement is terminated by the coordinator in accordance with Article II.17.1.3 or by EUSPA in accordance with Article II.17.2.2 this partner or these partners shall complete the implementation of any other Specific agreement,

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governed by the Framework agreement, which have entered into force before the date on which the termination of the participation in the Framework agreement takes effect.

ARTICLE II.18 – APPLICABLE LAW, SETTLEMENT OF DISPUTES AND ENFORCEABLE DECISIONS

- II.18.1** The Framework agreement and any Specific agreement are governed by the applicable Union law complemented, where necessary, by the law of Belgium.
- II.18.2** In accordance with Article 272 TFEU, the General Court or, on appeal, the Court of Justice of the European Union, has sole jurisdiction to hear any dispute between the Union and the partner concerning the interpretation, application or validity of the Framework agreement or any Specific agreement, if such dispute cannot be settled amicably.
- II.18.3** In accordance with Article 299 TFEU, for the purposes of recovery within the meaning of Article II.26, EUSPA or the European Commission may adopt an enforceable decision to impose pecuniary obligations on persons other than States.

An action may be brought against such decision before the General Court of the European Union in accordance with Article 263 TFEU.

PART B – FINANCIAL PROVISIONS

ARTICLE II.19 – ELIGIBLE COSTS

II.19.1 Conditions for the eligibility of costs

Eligible costs of the action are costs actually incurred by the partner which meet the following criteria:

- (a) they are incurred within the *implementation period* of the Specific agreement, with the exception of costs relating to request for payment of the balance and the corresponding supporting documents referred to in Article 4.4 of the Specific agreement;
- (b) they are indicated in the estimated budget of an action. The estimated budget is set out in Annex II of the Specific agreement;
- (c) they are incurred in connection with the *action* as described in Annex I of the Specific agreement and are necessary for its implementation;
- (d) they are identifiable and verifiable, in particular they are recorded in the partner's accounting records and determined according to the applicable accounting standards of the country where the partner is established and according to the partner's usual cost accounting practices;
- (e) they comply with the requirements of applicable tax and social legislation; and
- (f) they are reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency.

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II.19.2 Eligible direct costs

To be eligible the *direct cost* of an *action* shall comply with the eligibility conditions set out in Article II.19.1.

In particular, the following categories of costs are eligible *direct costs*, provided that they satisfy the eligibility conditions set out in Article II.19.1 as well as the following conditions:

- (a) the costs of personnel working under an employment contract with the partner or an equivalent appointing act and assigned to the action, provided that these costs are in line with the partner's usual policy on remuneration;

Those costs include actual salaries plus social security contributions and other statutory costs included in the remuneration. They may also comprise additional remunerations, including payments on the basis of supplementary contracts regardless of the nature of those contracts, provided that they are paid in a consistent manner whenever the same kind of work or expertise is required, independently from the source of funding used;

The costs of natural persons working under a contract with the partner other than an employment contract or who are seconded to the partner by a third party against payment may also be included under such personnel costs, provided that the following conditions are fulfilled:

- (i) the person works under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed);
 - (ii) the result of the work belongs to the partner (unless exceptionally agreed otherwise); and
 - (iii) the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the partner;
- (b) costs of travel and related subsistence allowances, provided that these costs are in line with the partner's usual practices on travel;
 - (c) the depreciation costs of equipment or other assets (new or second-hand) as recorded in the partner's accounting statements, provided that the asset:
 - (i) is written off in accordance with the international accounting standards and the partner's usual accounting practices; and
 - (ii) has been purchased in accordance with Article II.10.1 if the purchase occurred within the *implementation period*.

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The costs of renting or leasing equipment or other assets are also eligible, provided that these costs do not exceed the depreciation costs of similar equipment or assets and are exclusive of any finance fee;

Only the portion of the equipment's depreciation, rental or lease costs corresponding to the *implementation period* set out in Article 2.2 of the Specific agreement concerned and the rate of actual use for the purposes of the *action* may be taken into account when determining the *eligible costs*. By way of exception, the Special Conditions or the Specific agreement may provide for the eligibility of the full cost of purchase of equipment, if this is justified by the nature of the *action* and the context of the use of the equipment or assets;

- (d) costs of consumables and supplies, provided that they:
 - (i) are purchased in accordance with Article II.10.1; and
 - (ii) are directly assigned to the *action*;
- (e) costs arising directly from requirements imposed by the Framework agreement or the Specific agreement (dissemination of information, specific evaluation of the *action*, audits, translations, reproduction), including the costs of requested financial guarantees, provided that the corresponding services are purchased in accordance with Article II.10.1;
- (f) costs entailed by *subcontracts* within the meaning of Article II.11, provided that the conditions laid down in Article II.11.1 (a), (b), (c) and (d) are met;
- (g) costs of financial support to third parties within the meaning of Article II.12, provided that the conditions laid down in that Article are met;
- (h) duties, taxes and charges paid by the partner, notably value added tax (VAT), provided that they are included in eligible *direct costs*, and unless specified otherwise in the Special Conditions or in the Specific agreement.

II.19.3 Eligible indirect costs

To be eligible, *indirect costs* of the *action* shall represent a fair apportionment of the overall overheads of the partner and shall comply with the conditions of eligibility set out in Article II.19.1.

Eligible *indirect costs* shall be declared on the basis of a flat rate of 7% of the total eligible direct costs unless otherwise specified in Article 3.2 of the Specific agreement.

II.19.4 Ineligible costs

In addition to any other costs which do not fulfil the conditions set out in Article II.19.1, the following costs may not be considered eligible:

- (a) return on capital and dividends paid by the partner;

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- (b) debt and debt service charges;
- (c) provisions for losses or debts;
- (d) interest owed;
- (e) doubtful debts;
- (f) exchange losses;
- (g) costs of transfers from EUSPA charged by the bank of the partner;
- (h) costs declared by the partner under another action receiving a grant financed from the Union budget. Such grants include grants awarded by a Member State and financed from the Union budget and grants awarded by bodies other than EUSPA for the purpose of implementing the Union budget. In particular, if the partner receives an operating grant financed by the EU or Euratom budget, it may not declare indirect costs for the period(s) covered by the operating grant, unless it can demonstrate that the operating grant does not cover any costs of the action.
- (i) contributions in kind from third parties;
- (j) excessive or reckless expenditure;
- (k) deductible VAT.

ARTICLE II.20 – IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED

II.20.1 Declaring costs and contributions

Each partner shall declare as eligible costs or as a requested contribution:

- (a) for actual costs: the costs it actually incurred for the *action*;
- (b) for unit costs or unit contributions: the amount obtained by multiplying the amount per unit specified in Article 3.2(a)(ii) or (b) of the Specific agreement by the actual number of units used or produced;
- (c) for lump sum costs or lump sum contributions: the global amount specified in Article 3.2(a)(iii) or (c) of the Specific agreement, if the corresponding tasks or part of the *action* as described in Annex I of the Specific agreement have been implemented properly;
- (d) for flat-rate costs or flat-rate contributions: the amount obtained by applying the flat rate specified in Article 3.2(a)(iv) or (d) of the Specific agreement;
- (e) for unit costs declared on the basis of the partner’s usual cost accounting practices: the amount obtained by multiplying the amount per unit calculated in accordance with the partner’s usual cost accounting practices by the actual number of units used or produced;
- (f) for lump sum costs declared on the basis of the partner’s usual cost accounting practices: the global amount calculated in accordance with its usual cost accounting practices, if the corresponding tasks or part of the *action* have been implemented properly;
- (g) for flat-rate costs declared on the basis of the partner’s usual cost accounting practices: the amount obtained by applying the flat rate calculated in accordance with the partner’s usual cost accounting practices.

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For the forms of grant referred to in points (b), (c), (d), (f), (g) and (h), the amounts declared shall comply with the conditions specified in points (a) and (b) of Article II.19.1.

II.20.2 Records and other documentation to support the costs and contributions declared

Each partner shall provide the following, if requested to do so in the context of the checks or audits described in Article II.27:

- (a) for actual costs: adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records.

In addition, the partner’s usual accounting and internal control procedures shall permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements and with the amounts indicated in the supporting documents;

- (b) for unit costs or unit contributions: adequate supporting documents to prove the number of units declared.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared per unit;

- (c) for lump sum costs or lump sum contributions: adequate supporting documents to prove that the *action* has been properly implemented.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared as a lump sum;

- (d) for flat-rate costs or flat-rate contributions: adequate supporting documents to prove the eligible costs or requested contribution to which the flat rate applies.

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, for the flat rate applied;

- (e) for financing not linked to costs: adequate supporting documents to prove that the *action* has been properly implemented;

The partner does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared as a financing not linked to costs;

- (f) for unit costs declared on the basis of the partner’s usual cost accounting practices: adequate supporting documents to prove the number of units declared;

- (g) for lump sum costs declared on the basis of the partner’s usual cost accounting practices: adequate supporting documents to prove that the *action* has been properly implemented;

- (h) for flat-rate costs declared on the basis of the partner’s usual cost accounting practices: adequate supporting documents to prove the eligible costs to which the flat rate applies.

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II.20.3 Conditions to determine the compliance of cost accounting practices

II.20.3.1 In the case of points (e), (f) and (g) of Article II.20.2, the partner does not need to identify the actual eligible costs covered, but it shall ensure that the cost accounting practices used for the purpose of declaring eligible costs are in compliance with the following conditions:

- (a) the cost accounting practices used constitute its usual cost accounting practices and are applied in a consistent manner, based on objective criteria independent from the source of funding;
- (b) the costs declared can be directly reconciled with the amounts recorded in its general accounts; and
- (c) the categories of costs used for the purpose of determining the costs declared are exclusive of any ineligible cost or costs covered by other forms of grant as provided for in Article 3.2 of the Specific agreement.

II.20.3.2 If the Special Conditions or the Specific agreement so provide, the partner may submit to EUSPA a request asking it to assess the compliance of its usual cost accounting practices. If required by the Specific agreement, the request shall be accompanied by a certificate on the compliance of the cost accounting practices ('certificate on the compliance of the cost accounting practices').

The certificate on the compliance of the cost accounting practices shall be:

- (a) produced by an approved auditor or, if the partner is a public body, by a competent and independent public officer; and
- (b) drawn up in accordance with Annex IX.

The certificate shall certify that the partner's cost accounting practices used for the purpose of declaring eligible costs comply with the conditions laid down in Article II.20.3.1 and with the additional conditions that may be laid down in the Special conditions or in the Specific agreement.

II.20.3.3 If EUSPA has confirmed that the partner's usual cost accounting practices comply, costs declared in application of these practices may not be challenged *ex post*, if:

- (a) the practices actually used comply with those approved by EUSPA; and
- (b) the partner did not conceal any information for the purpose of the approval of its cost accounting practices.

ARTICLE II.21 – ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE PARTNER

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If the Special Conditions or the Specific agreement contain a provision on entities affiliated to the partner, costs incurred by such an entity are eligible, if:

- (i) they satisfy the same conditions under Articles II.19 and II.20 as apply to the partner, and
- (ii) the partner ensures that the conditions applicable to it under Articles II.4, II.5, II.6, II.8, II.10, II.11 and II.27 are also applicable to the entity.

ARTICLE II.22 – BUDGET TRANSFERS

The partners are allowed to adjust the estimated budget set out in Annex II of the Specific agreement, by transfers between themselves and between the different budget categories if the *action* is implemented as described in Annex I of the Specific agreement. This adjustment does not require an amendment of the Specific agreement as provided for in Article II.13.

However, the partners may not add costs relating to *subcontracts* not provided for in Annex I of the Specific agreement, unless such additional *subcontracts* are approved by EUSPA in accordance with Article II.11.1(d).

As an exception to the first subparagraph, if partners want to change the value of the contribution to which each of them is entitled, as referred to in point (c) of the third subparagraph of II.26.3, the coordinator shall request an amendment as provided for in Article II.13.

The first three subparagraphs do not apply to amounts which, as provided for in Article 3.2(iii) of the Specific agreement, take the form of lump sums.

ARTICLE II.23 – NON-COMPLIANCE WITH THE REPORTING OBLIGATIONS

EUSPA may terminate the Framework agreement or a Specific agreement as provided for in Article II.17.2.2(c) and may reduce the specific grant as provided for in Article II.25.4 if the coordinator:

- (a) did not submit a request for interim payment or payment of the balance accompanied by the documents referred to in Articles 4.3 or 4.4 of the Specific agreement within 60 calendar days following the end of the corresponding reporting period; and
- (b) still fails to submit such a request within further 60 calendar days following a written reminder sent by EUSPA.

ARTICLE II.24 – SUSPENSION OF PAYMENTS AND TIME LIMIT FOR PAYMENT

II.24.1 Suspension of payments

II.24.1.1 Grounds for suspension

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EUSPA may, at any time during the implementation of the Specific agreement, suspend, in whole or in part, the pre-financing payments, interim payments for one or more partners or the payment of the balance for all partners:

- (a) if EUSPA has evidence that a partner has committed *substantial errors, irregularities or fraud* in the award procedure or while implementing the Framework agreement or a Specific agreement or if a partner fails to comply with its obligations under the Framework agreement or the Specific agreement;
- (b) if EUSPA has evidence that a partner has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the partner under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on a specific grant awarded under the Framework agreement; or
- (c) if EUSPA suspects *substantial errors, irregularities, fraud* or breach of obligations committed by the partner in the award procedure or while implementing the Framework agreement or the Specific agreement and needs to verify whether they have actually occurred.

II.24.1.2 Procedure for suspension

Step 1 — Before suspending payments, EUSPA shall send a *formal notification* to the coordinator:

- (a) informing it of:
 - (i) its intention to suspend payments;
 - (ii) the reasons for suspension;
 - (iii) in the cases referred to in points (a) and (b) of Article II.24.1.1, the conditions that need to be met for payments to resume; and
- (b) inviting it to submit observations within 30 calendar days of receiving the *formal notification*.

Step 2 — If EUSPA does not receive observations or decides to pursue the procedure despite the observations it has received, it shall send a *formal notification* to the coordinator informing it of:

- (a) the suspension of payments;
- (b) the reasons for suspension;
- (c) the final conditions under which payments may resume in the cases referred to in points (a) and (b) of Article II.24.1.1;
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.24.1.1.

The coordinator must immediately inform the other partners of the suspension. The suspension takes effect on the day EUSPA sends *formal notification* of suspension (Step 2).

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Otherwise, EUSPA shall send a *formal notification* to the coordinator informing it that it is not continuing with the suspension procedure.

II.24.1.3 Effects of suspension

During the period of suspension of payments the coordinator is not entitled to submit:

- any requests for payments and supporting documents referred to in Articles 4.2, 4.3 and 4.4 of the Specific agreement; or
- where the suspension concerns the pre-financing payments or interim payments for one or several partners only, any requests for payments and supporting documents relating to the participation of the concerned partner or partners in the *action*.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments in accordance with the schedule laid down in Article 4.1 of the Specific agreement.

The suspension of payments does not affect the right of the coordinator to suspend the implementation of the *action* as provided for in Article II.16.1 or to terminate the Framework agreement or the Specific agreement as provided for in Article II.17.1.

II.24.1.4 Resuming payments

In order for EUSPA to resume payments, the partners shall meet the notified conditions as soon as possible and shall inform EUSPA of any progress made.

If the conditions for resuming payments are met, the suspension will be lifted. EUSPA will send a *formal notification* to the coordinator informing it of this.

II.24.2 Suspension of the time limit for payments

II.24.2.1 EUSPA may at any moment suspend the time limit for payment specified in Articles 5.2, 5.3 and 5.4 of the Specific agreement if a request for payment cannot be approved because:

- (a) it does not comply with the Specific agreement or the Framework agreement;
- (b) the appropriate supporting documents have not been produced; or
- (c) there is a doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

II.24.2.2 EUSPA shall send a *formal notification* to the partner informing it of:

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- (a) the suspension; and
- (b) the reasons for the suspension.

The suspension takes effect on the day EUSPA sends the *formal notification*.

II.24.2.3 If the conditions for suspending the payment deadline are no longer met, the suspension will be lifted and the remaining period will resume.

If the suspension exceeds two months, the coordinator may request EUSPA if the suspension will continue.

If the payment deadline has been suspended because the technical reports or financial statements do not comply with the Specific agreement or the Framework agreement and the revised report or statement is not submitted or was submitted but is also rejected, EUSPA may terminate the Specific agreement and the Framework agreement as provided for in Article II.17.2.2(c) and reduce the grant as provided for in Article II.25.4.

ARTICLE II.25 – CALCULATION OF THE FINAL AMOUNT OF THE GRANT

The final amount of the specific grant depends on the extent to which the *action* has been implemented in accordance with the terms of the Specific agreement and the Framework agreement.

The final amount of the grant is calculated by EUSPA at the time of the payment of the balance.

The calculation involves the following steps:

- Step 1 — Application of the reimbursement rate to the eligible costs and addition of the financing not linked to costs, unit, flat-rate and lump sum contributions
- Step 2 — Limit to the *maximum amount of the grant*
- Step 3 — Reduction due to the no-profit rule
- Step 4 — Reduction due to improper implementation, irregularity, fraud or breach of obligations.

II.25.1 Step 1 — Application of the reimbursement rate to the eligible costs and addition of the financing not linked to costs unit, flat-rate and lump sum contributions

This step is applied as follows:

- (a) If, as provided for in Article 3.2(i) of the Specific agreement, the grant takes the form of the reimbursement of eligible costs actually incurred, the reimbursement rate specified in that Article is applied to those eligible costs as approved by EUSPA for the corresponding categories of costs, for the partner and its affiliated entities
- (b) If, as provided for in Article 3.2(ii) to (v) of the Specific agreement, the grant takes the form of the reimbursement of eligible unit costs, lump sum costs or flat rate costs, the

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reimbursement rate specified in that Article is applied to those eligible costs as approved by EUSPA for the corresponding categories of costs, for the partner and its affiliated entities;

The accepted amount of volunteers' work for the partner and its affiliated entities shall be limited to the following amount, whichever is the lowest:

- (i) the total sources of financing as indicated in the estimated budget set out in Annex II of the Specific agreement and as accepted by EUSPA multiplied by fifty per cent; or
 - (ii) the amount of volunteers' work as indicated in the final financial statements.
- (c) If, as provided for in the Specific agreement, the grant takes the form of a unit contribution, the unit contribution specified in that Article is multiplied by the actual number of units approved by EUSPA for the partner and its affiliated entities;
- (d) If, as provided for in the Specific agreement, the grant takes the form of a lump sum contribution, EUSPA applies the lump sum specified in that Article for the partner and its affiliated entities if it finds that the corresponding tasks or part of the *action* were implemented properly in accordance with Annex I of the Specific agreement;
- (e) If, as provided for in the Specific agreement, the grant takes the form of a flat-rate contribution, the flat rate referred to in that Article is applied to the eligible costs or to the contribution approved by EUSPA for the partner and its affiliated entities.
- (f) If, as provided for in the Specific agreement, the grant takes the form of financing not linked to costs, EUSPA applies the amount specified in that Article for the partner and its affiliated entities if it finds that the conditions specified in Annex I of the Specific agreement were fulfilled and the results specified in Annex I of the Specific agreement were achieved.

If Article 3.2 of the Specific agreement provides for a combination of different forms of grant, the amounts obtained shall be added together.

II.25.2 Step 2 — Limit to maximum amount of the grant

The total amount paid to the partners by EUSPA may in no circumstances exceed the *maximum amount of the grant*.

If the amount obtained following Step 1 is higher than this *maximum amount*, the final amount of the grant is limited to the latter.

II.25.3 Step 3 — Reduction due to the no-profit rule

The grant may not produce a profit for the beneficiaries, unless specified otherwise in the Special Conditions.

‘Profit’ means the surplus of the amount obtained following Steps 1 and 2 plus the total receipts of the *action*, over the total eligible costs of the *action*.

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The total eligible costs of the *action* are the consolidated total eligible costs approved by EUSPA for the categories of costs reimbursed in accordance with Article 3.2 of the Specific agreement.

The total receipts of the *action* are the consolidated total receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the coordinator.

The following are considered receipts:

- (a) income generated by the *action*;
- (b) financial contributions given by third parties to a beneficiary or to an affiliated entity, if they are specifically assigned by the third parties to the financing of the eligible costs of the *action* reimbursed by EUSPA in accordance with Article 3.2(i) of the Specific agreement.

The following are however not considered receipts:

- (a) financial contributions by third parties, if they may be used to cover costs other than the eligible costs under the Agreement;
- (b) financial contributions by third parties with no obligation to repay any amount unused at the end of the *implementation period*.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the *action* approved by EUSPA for the categories of costs referred to in Article 3.2(i) of the Specific agreement (as compared to the amount calculated following Steps 1 and 2).

II.25.4 Step 4 — Reduction due to improper implementation, irregularity, fraud or breach of obligations

EUSPA may reduce the *maximum amount of the grant* if the *action* has not been implemented properly as described in Annex I of the Specific agreement (i.e. if it has not been implemented or has been implemented poorly, partially or late), or in case of *irregularity, fraud* or breach of an obligation under the Framework agreement or the Specific agreement.

The amount of the reduction will be proportionate to the degree to which the *action* has been implemented improperly or to the seriousness of the *irregularity, fraud* or *breach of obligation*.

Before EUSPA reduces the grant, it shall send a *formal notification* to the coordinator:

- (a) informing it of:
 - (i) its intention to reduce the *maximum amount of the grant*;
 - (ii) the amount by which it intends to reduce the grant;
 - (iii) the reasons for reduction; and
- (b) inviting it to submit observations within 30 calendar days of receiving the *formal notification*.

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If EUSPA does not receive any observations or decides to pursue reduction despite the observations it has received, it will send a *formal notification* informing the partner of its decision.

If the grant is reduced, EUSPA shall calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the *action* or to the seriousness of the *irregularity, fraud or breach of obligations*) from the *maximum amount of the grant*.

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

- (a) the amount obtained following Steps 1 to 3; or
- (b) the reduced grant amount following Step 4.

ARTICLE II.26 – RECOVERY

II.26.1 Recovery at the time of payment of the balance

Where the payment of the balance takes the form of a recovery, the coordinator must repay EUSPA the amount in question, even if it was not the final recipient of the amount due.

II.26.2 Recovery after payment of the balance

Where an amount is to be recovered as provided for in Articles II.27.6, II.27.7 and II.27.8, the partner concerned by the audit or OLAF findings must repay EUSPA the amount in question. Where the audit findings do not concern a specific partner (or its affiliated entities), the coordinator must repay EUSPA the amount in question, even if it was not the final recipient of the amount due.

Each partner is responsible for the repayment of any amount unduly paid by EUSPA as a contribution towards the costs incurred by its affiliated entities.

II.26.3 Recovery procedure

Before recovery, EUSPA shall send a *formal notification* to the partner concerned:

- (a) informing it of its intention to recover the amount unduly paid;
- (b) specifying the amount due and the reasons for recovery; and
- (c) inviting the partner to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the partner, EUSPA decides to pursue the recovery procedure, EUSPA may confirm recovery by sending a *formal notification* to the partner consisting of a debit note, specifying the terms and the date for payment.

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If payment has not been made by the date specified in the debit note, EUSPA will recover the amount due:

- (a) by offsetting it, without the partner's prior consent, against any amounts owed to the partner by EUSPA ("offsetting");

In exceptional circumstances, to safeguard the financial interests of the Union, EUSPA may offset before the due date.

An *action* may be brought against such offsetting before the General Court of the European Union in accordance with Article 263 TFEU;

- (b) by drawing on the financial guarantee where provided for in accordance with Article 5.2 of the Specific agreement ("drawing on the financial guarantee");
- (c) by holding the partners jointly and severally liable up to the maximum EU contribution indicated, for each partner, in the estimated budget (Annex II of the Specific agreement as last amended);
- (d) by taking legal *action* as provided for in Article II.18.2 or in the Special Conditions or by adopting an enforceable decision as provided for in Article II.18.3.

II.26.4 Interest on late payment

If payment is not made by the date in the debit note, the amount to be recovered will be increased by late payment interest at the rate set out in Article 5.6 of the Specific agreement from the day following the date for payment in the debit note, up to and including the date EUSPA receives full payment of the amount.

Partial payment shall first be credited against charges and late payment interest and then against the principal.

II.26.5 Bank charges

Bank charges incurred in the recovery process shall be borne by the partner, unless Directive 2007/64/EC⁹ applies.

ARTICLE II.27 – CHECKS, AUDITS AND EVALUATION

II.27.1 Technical and financial checks, audits, interim and final evaluations

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

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The European Commission/EUSPA may, during the implementation of an *action* or afterwards, carry out technical and financial checks and audits to determine that the partners are implementing the *action* properly and are complying with the obligations under the Specific agreement or the Framework agreement. It may also check the partners' statutory records for the purpose of periodic assessments of lump sum, unit cost or flat-rate amounts.

Information and documents provided as part of checks or audits shall be treated on a confidential basis.

In addition, the European Commission/EUSPA may carry out an interim or final evaluation of the impact of the *action* measured against the objective of the Union programme concerned.

Checks, audits or evaluations made by the European Commission/EUSPA may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf. Upon beneficiary's request, the European Commission/EUSPA may inform the beneficiary of the identity of outside bodies, provided that the conditions for transfer of personal data according to Article 9(b) of Regulation (EU) No 2018/1725 are met. The beneficiaries have right to object to the appointment of outside bodies on grounds of conflict of interests or on grounds of commercial confidentiality. Any such objection must be, however, duly substantiated and supported by evidences to enable the European Commission/EUSPA to assess the merits of such an objection and if shared, select another outside body.

The European Commission/EUSPA may initiate such checks, audits or evaluations during the implementation of the Specific agreement and during a period of five years starting from the date of payment of the balance for the *action* concerned. This period is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

The check, audit or evaluation procedures are considered to be initiated on the date of receipt of the letter of the European Commission/EUSPA announcing it.

If the audit is carried out on an affiliated entity, the partner concerned shall inform that affiliated entity.

II.27.2 Duty to keep documents

The partners shall keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by its national law and under the conditions laid down therein, during a period of five years starting from the date of payment of the balance for the *action* concerned.

This period during which documents shall be kept is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

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The periods set out in the first and second subparagraphs are longer if there are on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the cases referred to in Article II.27.7. In such cases, the partners shall keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

II.27.3 Obligation to provide information

Where a check, audit or evaluation is initiated before the payment of the balance, the coordinator must provide any information, including information in electronic format, requested by EUSPA or by any other outside body authorised by EUSPA. Where appropriate, EUSPA may request that a partner provides such information directly.

Where a check or audit is initiated after payment of the balance, the information referred to in the previous subparagraph shall be provided by the partner concerned.

If the partner concerned does not comply with the obligation set out in the first and second subparagraph, EUSPA may consider:

- (a) any cost insufficiently substantiated by information provided by the partner as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the partner as undue.

II.27.4 On-the-spot visits

During an on-the-spot visit, the partners shall allow EUSPA’s staff and outside personnel authorised by EUSPA to have access to the sites and premises where the *action* concerned is or was carried out, and to all the necessary information, including information in electronic format.

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.

If the partner concerned refuses to provide access to the sites, premises and information as required in the first and second subparagraphs, EUSPA may consider:

- (c) any cost insufficiently substantiated by information provided by the partner as ineligible;
- (d) any financing not linked to costs, unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the partner as undue.

II.27.5 Contradictory audit procedure

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 EUSPA or its authorised representative to the partner concerned, which shall have 30 calendar days from the date of receipt to submit observations. The final report (“final audit report”) shall be sent to the partner concerned within 60 calendar days of expiry of the time limit for submission of observations.

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II.27.6 Effects of audit findings

On the basis of the final audit findings, EUSPA may take the measures it considers necessary, including recovery of all or part of the payments made by it under the Specific agreement concerned, as provided for in Article II.26.

In the case of final audit findings after the payment of the balance, the amount to be recovered corresponds to the difference between the revised final amount of the specific grant, determined in accordance with Article II.25, and the total amount paid to the partner under the Specific agreement for the implementation of the *action*.

II.27.7 Correction of systemic or recurrent irregularities, fraud or breach of obligations

II.27.7.1 EUSPA may extend audit findings from other grants to a specific grant awarded under the Framework agreement if:

- (a) the partner concerned is found to have committed systemic or recurrent *irregularities, fraud or breach of obligations* in other EU or Euratom grants awarded under similar conditions and such *irregularities, fraud or breach of obligations* have a material impact on a specific grant awarded under the Framework agreement; and
- (b) the final audit findings are sent to the partner through a *formal notification*, together with the list of grants affected by the findings within the period referred to in Article II.27.1.

The extension of findings may lead to:

- (i) the rejection of costs as ineligible;
- (ii) reduction of the grant as provided for in Article II.25.4;
- (iii) recovery of undue amounts as provided for in Article II.26;
- (iv) suspension of payments as provided for in Article II.24.1;
- (v) suspension of the *action* implementation as provided for in Article II.16.2;
- (vi) termination as provided for in Article II.17.2.

II.27.7.2 EUSPA shall send a *formal notification* to the partner concerned informing it of the systemic or recurrent *irregularities, fraud or breach of obligations* and of its intention to extend the audit findings, together with the list of grants affected.

- (a) If the findings concern eligibility of costs the procedure is as follows:

Step 1 — The *formal notification* shall include:

- (i) an invitation to submit observations on the list of grants affected by the findings;
- (ii) a request to submit revised financial statements for all grants affected;
- (iii) where possible, the correction rate for extrapolation established by EUSPA to calculate the amounts to be rejected on the basis of the systemic or recurrent *irregularities, fraud or breach of obligations*, if the partner:

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- considers that the submission of revised financial statements is not possible or practicable; or
- will not submit revised financial statements.

Step 2 — The partner concerned has 60 calendar days from when it receives the *formal notification* to submit observations and revised financial statements or to propose a duly substantiated alternative correction method. This period may be extended by EUSPA in justified cases.

Step 3 — If the partner concerned submits revised financial statements that take account of the findings EUSPA will determine the amount to be corrected on the basis of those revised statements.

If the partner concerned proposes an alternative correction method and EUSPA accepts it, EUSPA shall send a *formal notification* to the partner informing it:

- (i) that it accepts the alternative method;
- (ii) of the revised eligible costs determined by applying this method.

Otherwise EUSPA shall send a *formal notification* to the partner concerned informing it:

- (i) that it does not accept the observations or the alternative method proposed;
- (ii) of the revised eligible costs determined by applying the extrapolation method initially notified to the partner.

If the systemic or recurrent *irregularities, fraud or breach of obligations* are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant, determined in accordance with Article II.25 on the basis of the revised eligible costs declared by the partner and approved by EUSPA or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the partner under the Specific agreement for the implementation of the *action*;

- (b) If the findings concern improper implementation or a breach of another obligation the procedure is as follows:

Step 1 — The *formal notification* shall include:

- (i) an invitation to the partner to submit observations on the list of grants affected by the findings and
- (ii) the correction flat rate EUSPA intends to apply to the *maximum amount of the grant* or to part of it, according to the principle of proportionality.

Step 2 — The partner concerned has 60 calendar days from receiving the *formal notification* to submit observations or to propose a duly substantiated alternative flat-rate.

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Step 3 — If EUSPA accepts the alternative flat rate proposed by the partner, it shall send a *formal notification* to the partner concerned informing it:

- (i) that it accepts the alternative flat-rate;
- (ii) of the corrected grant amount by applying this flat rate.

Otherwise EUSPA shall send a *formal notification* to the partner concerned informing it:

- (i) that it does not accept the observations or the alternative flat rate proposed;
- (ii) of the corrected grant amount by applying the flat rate initially notified to the partner.

If the systemic or recurrent *irregularities, fraud or breach of obligations* are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant after flat-rate correction; and
- (ii) the total amount paid to the partner under the Specific agreement for the implementation of the *action*.

II.27.8 Rights of OLAF

The European Anti-Fraud Office (OLAF) has the same rights as the European Commission/EUSPA, particularly the right of access, for the purpose of checks and investigations.

Under Council Regulation (Euratom, EC) No 2185/96¹⁰ and Regulation (EU, Euratom) No 883/2013¹¹ 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*.

Where appropriate, OLAF findings may lead to the European Commission/ EUSPA recovering amounts from the partner.

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

II.27.9 Rights of the European Court of Auditors and EPPO

The European Court of Auditors and the European Public Prosecutor’s Office established by Council Regulation (EU) 2017/1939 (‘the EPPO’) have the same rights as the European Commission/EUSPA, particularly the right of access, for the purpose of checks, audits and investigations.

¹⁰ 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*.

¹¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

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ANNEX III - MODEL SPECIFIC GRANT AGREEMENT FOR AN ACTION WITH MULTIPLE PARTNERS

SPECIFIC AGREEMENT No EUSPA/GRANT/03/2022/SGx

UNDER FRAMEWORK PARTNERSHIP AGREEMENT No EUSPA/GRANT/03/2022

This specific agreement (hereinafter referred to as "the Specific agreement") is concluded between the following parties:

on the one part,

The **European Union Agency for the Space Programme** (hereinafter referred to as "EUSPA"), represented for the purposes of signature of this Framework partnership agreement by its Executive Director, Rodrigo da Costa,

and

on the other part,

1. "the coordinator"

[full official name] [ACRONYM]

[official legal status or form]¹²

[official registration No]¹³

[official address in full]

[VAT number],

represented for the purposes of signature of the Specific agreement by [function, forename and surname],

and the following other partners:

2. [full official name — established in [country]]

3. [full official name — established in [country]]

[idem for each partner]

¹² To be deleted or filled in according to the "Legal Entity" form

¹³ To be deleted or filled in according to the "Legal Entity" form

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duly represented for the signature of the Specific agreement by the coordinator by virtue of the mandate[s] included in Annex IV of the Framework agreement.

Unless otherwise specified, references to ‘partner’ and ‘partners’ include the coordinator.

The parties referred to above

HAVE AGREED

To the Specific agreement and the following annexes:

- Annex I Description of the work plan
- Annex II Estimated budget
- Annex III Model financial statement
- Annex IV Model terms of reference for the certificate on the financial statements
- Annex V EUSPA letter XXX (letter accepting early start of the work before signature)¹⁴

¹⁴ To be used only if relevant

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ARTICLE 1 – SUBJECT MATTER OF THE SPECIFIC AGREEMENT

The Specific agreement is concluded in the context of the partnership established between the parties. It is drawn up in accordance with the relevant terms of Framework partnership agreement No [...] signed between EUSPA and the partners on [insert the date on which the last party has signed the Framework agreement] (hereinafter referred to as "the Framework agreement").

EUSPA has decided to award a grant ("specific grant for an action"), under the terms and conditions set out in the Specific agreement and the Framework agreement, for the *action* entitled [insert title of the action in bold] ("the *action*") as described in Annex I.

By signing the Specific agreement, the partners accepts the grant and agrees to implement the action in accordance with the terms and conditions of the Specific agreement and the Framework agreement, acting on their own responsibility.

ARTICLE 2 – ENTRY INTO FORCE AND IMPLEMENTATION PERIOD OF THE SPECIFIC AGREEMENT

- 2.1** The Specific agreement enters into force on the date on which the last party signs.
- 2.2** The *action* runs for [insert number in bold] months starting on the first day of the month following the date when the last party signs the Specific agreement] ("starting date")¹⁵.

Or alternatively if action started before signature following EUSPA authorisation

- 2.2** The *action* runs for XX months starting on XXXX in line with Article 193 (2) of the Financial Regulation and based on the beneficiary's demonstrated need for starting the action prior to the signature of the grant agreement ("starting date") (see Annex IV).

ARTICLE 3 – MAXIMUM AMOUNT AND FORM OF GRANT

- 3.1** The *maximum amount of the grant* is EUR [insert amount].

¹⁵ The date must be later than the date of entry into force of the Specific agreement unless authorised otherwise by the responsible authorising officer, in case the applicant demonstrates the need to start the action before the grant agreement enters into force. In any case the indicated date should not be earlier than the date of the submission of the grant application.

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3.2 The grant takes the form of the reimbursement of **70%** of the eligible costs of the action ('reimbursement of eligible costs'), which are estimated at EUR [...] and which are:

- (i) actually incurred ("reimbursement of actual costs") **for the direct costs**
- (ii)a declared on the basis of an amount of EUR per unit as specified in Annex X ("reimbursement of unit costs") for the beneficiaries which are small and medium-sized enterprises (SME) and their owners do not receive a salary and for the beneficiaries which are natural persons and they do not receive a salary: **not applicable**
- (ii)b reimbursement of all other unit costs: **not applicable**
- (iii) reimbursement of lump sum costs: **not applicable**
- (iv) declared on the basis of a **flat-rate of 7 % of the eligible direct costs** excluding subcontracting ("reimbursement of flat-rate costs") for the indirect costs
- (v) reimbursement of costs declared on the basis of the beneficiary's usual cost accounting practices: **not applicable.**

No other type of costs shall be declared eligible.

ARTICLE 4 – REPORTING, REQUEST FOR PAYMENTS AND SUPPORTING DOCUMENTS

4.1 Reporting periods

The *action* is divided into the following *reporting periods*:

- Reporting period 1: from the starting date of the project to the half term of the project (**x months**);
- Reporting period 2: from **[x+1 month]** to the end of the project as set out in Article 2.2;

4.2 Request[s] for second [and] [,] [third][and][,][fourth][same for further] pre-financing payment[s] and supporting documents

[Not applicable]

4.3 Request for interim payment and supporting documents

The coordinator shall submit a request for an interim payment within 60 calendar days following the end of the first reporting period, as specified in Article 4.1.

This request must be accompanied by the following documents:

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- (a) an interim report ('interim technical report'), containing at least the following:
 - (i) the information needed to justify the eligible costs;
 - (ii) information on *subcontracting* as referred to in Article II.11.1(d)(ii) of the Framework agreement, including unforeseen subcontracting (if applicable);
 - (iii) work performed from the beginning of the project to the end of the period covered by the report and main results achieved, per task;
 - (iv) deliverables submitted;
 - (v) reviews presented
 - (vi) deviations from the description of the action (if applicable) concerning tasks (e.g. delays in the implementation), use of resources (deviations of the use of resources between actual and planned use of resources, especially related to person-months per task).

- (b) an interim financial statement ('interim financial statement'). The interim financial statement shall include a consolidated statement and a breakdown of the amounts claimed by each partner and its affiliated entities.

The interim financial statement shall be drawn up in accordance with the structure of the estimated budget set out in Annex II of the Specific agreement and in accordance with Annex V of the Framework agreement. It must also detail the amounts for each of the forms of grant set out in Article 3.2 for the reporting period concerned;

- (c) a certificate on the financial statements and underlying accounts ('certificate on the financial statements') may be demanded by the authorising officer responsible in support of interim payments or payments of balances of any amount.

If requested, this certificate shall be produced by an approved external auditor or, in case of public bodies, by a competent and independent public officer and drawn up in accordance with Annex VI of the Framework agreement.

The certificate shall certify that the costs declared in the interim financial statement by the partner concerned or its affiliated entities for the categories of costs reimbursed in accordance with Article 3.2(i) are real, accurately recorded and eligible in accordance with the Framework agreement and the Specific agreement.

The coordinator shall certify that the information provided in the request for interim payment is full, reliable and true.

The coordinator shall also certify that the costs incurred can be considered eligible in accordance with the Framework agreement and the Specific agreement and that the request for payment is

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substantiated by adequate supporting documents that can be produced in the context of the checks or audits described in Article II.27 of the Framework agreement.

[if no interim payments are foreseen: Not applicable]

4.4 Request for payment of the balance and supporting documents

The coordinator shall submit a request for payment of the balance within 60 calendar days following the end of the last reporting period.

This request must be accompanied by the following documents:

- (a) a final report on implementation of the *action* ('final technical report'), containing at least the following:
 - (i) the information needed to justify the eligible costs declared;
 - (ii) information on subcontracting as referred to in Article II.11.1(d)(ii) of the Framework agreement including unforeseen subcontracting (if applicable);
 - (iii) Work performed from the beginning of the project to the end of the period covered by the report and main results achieved, per task;
 - (iv) deliverables submitted;
 - (v) reviews presented;
 - (vi) deviations from the description of the action (if applicable) concerning tasks (e.g. delays in the implementation), use of resources (deviations of the use of resources between actual and planned use of resources, especially related to person-months per task).

- (b) a final financial statement ('final financial statement'). The final financial statement shall include a consolidated statement and a breakdown of the amounts claimed by each partner and its affiliated entities.

The final financial statement shall be drawn up in accordance with the structure of the estimated budget set out in Annex II of the Specific agreement and in accordance with Annex V of the Framework agreement and detail the amounts for each of the forms of grant set out in Article 3.2 for the last reporting period;

- (c) a summary financial statement ('summary financial statement'). This statement shall include a consolidated financial statement and a breakdown of the amounts declared or requested by each partner and its affiliated entities, aggregating the financial statements already submitted previously and indicating the revenue generated by the *action* referred to in Article II.25.3 of the Framework agreement for each partner and its affiliated entities other than non-profit organisations.

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The summary financial statement shall be drawn up in accordance with Annex V of the Framework agreement;

- (d) a certificate on the financial statements and underlying accounts ('certificate on the financial statements') may be demanded by the authorising officer responsible in support of interim payments or payments of balances of any amount.

If requested, this certificate shall be produced by an approved external auditor or, in case of public bodies, by a competent and independent public officer and drawn up in accordance with Annex VI of the Framework agreement.

The certificate shall certify that the costs declared in the final financial statement by the partner or its affiliated entities for the categories of costs reimbursed in accordance with Article 3.2(a)(i) are real, accurately recorded and eligible in accordance with the Specific agreement and the Framework agreement.

In addition, the certificate shall certify that all the receipts referred to in Article II.25.3 of the Framework agreement have been declared.

The coordinator shall certify that the information provided in the request for payment of the balance is full, reliable and true.

The coordinator shall also certify that the costs incurred can be considered eligible in accordance with the Framework agreement and the Specific agreement and that the request for payment is substantiated by adequate supporting documents that can be produced in the context of the checks or audits described in Article II.27 of the Framework agreement.

In addition, the coordinator shall certify that all the revenues generated by the *action* referred to in Article II.25.3 of the Framework agreement have been declared for each partner and its affiliated entities other than non-profit organisations.

4.5 Information on cumulative expenditure incurred

Not applicable

4.6 Currency for requests for payment and financial statements and conversion into euro

Requests for payment and financial statements shall be drafted in euros.

The partners and affiliated entities with general accounts in a currency other than the euro shall convert costs incurred in another currency into Euro at the average of the daily exchange rates published in the C series of the *Official Journal of the European Union* (available at

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<http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html>), determined over the corresponding reporting period.

If no daily euro exchange rate is published in the *Official Journal of the European Union* for the currency in question, conversion must be made at the average of the monthly accounting rates established by the Commission and published on its website (http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm), determined over the corresponding reporting period.

The partners and affiliated entities with general accounts in euros shall convert costs incurred in another currency into Euro in accordance with their usual accounting practices.

4.7 Language of requests for payments, technical reports and financial statements

All requests for payments, technical reports and financial statements must be submitted in English.

ARTICLE 5 — PAYMENTS AND PAYMENT ARRANGEMENTS

5.1 Payments to be made

EUSPA must make the following payments to the coordinator:

- one pre-financing payment of an amount equal to 30% of the amount of the grant;
- one interim payment of an amount of up to 40% of the amount of the grant, on the basis of the request for interim payment referred to in Article 4.3;
- one payment of the balance, on the basis of the request for payment of the balance referred to in Article 4.4.

5.2 Pre-financing payment[s]

[If there is no pre-financing: Not applicable]

The aim of the pre-financing is to provide the partner with a float. The pre-financing remains the property of EUSPA until it is cleared against interim payment or, if it is not cleared against interim payment, until the payment of the balance.

EUSPA shall make the pre-financing payment of EUR [insert amount] to the partner within 30 (thirty) calendar days from the entry into force of the Specific agreement [or from when EUSPA receives the financial guarantee of EUR [insert amount], whichever is the latest], except if Article II.24.1 of the Framework agreement applies.

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[The financial guarantee must fulfil the following conditions:

- (a) it is provided by a bank or an approved financial institution or, if requested by the partner and accepted by EUSPA, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require EUSPA to first have recourse against the principal debtor (i.e. the partner concerned); and
- (c) it explicitly remains in force until the pre-financing is cleared against interim payments or payment of the balance by EUSPA. If payment of the balance takes the form of a recovery, the financial guarantee must remain in force until three months after the debit note is notified to the partner. EUSPA shall release the guarantee within the following month.]

5.3 Interim payment

[If there are no interim payments: Not applicable]

The interim payment reimburses or covers the eligible costs incurred for the implementation of the *action* during the corresponding reporting period.

EUSPA shall pay the coordinator the amount due as interim payment within 90 (ninety) calendar days from when EUSPA receives the documents referred to in Article 4.3, except if Article II.24.1 or II.24.2 of the Framework agreement apply.

Payment is subject to the approval of the request for interim payment and of the supporting documents. Their approval does not imply recognition of the compliance, authenticity, completeness or correctness of their content.

EUSPA calculates the amount due as interim payment as follows:

- Step 1 — It applies the reimbursement rate to the eligible costs
- Step 2 — It clears the pre-financing
- Step 3 — It limits the amount to 70% of the *maximum amount of the grant*.

5.3.1 Step 1 — Applying the reimbursement rate to the eligible costs

This step is applied as follows: the reimbursement rate specified in that Article is applied to the eligible costs of the *action* approved by EUSPA for the concerned reporting period and for the corresponding categories of costs for the partner and its affiliated entities;

5.3.2 Step 2 — Clearing the pre-financing

The interim payment shall clear 50% of the amount of the pre-financing payment previously made.

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The amount of pre-financing to be cleared must be deducted from the amount obtained following Step 1.

5.3.3 Step 3 — Limiting the amount to 70% of the *maximum amount of the grant*

The total amount of pre-financing and interim payments shall not exceed 70% of the *maximum amount of the grant*.

5.4 Payment of the balance

The payment of the balance reimburses or covers the remaining part of the eligible costs for the implementation of the *action*.

If the total amount of earlier payments is greater than the final amount of the grant determined in accordance with Article II.25 of the Framework agreement, the payment of the balance takes the form of a recovery as provided for by Article II.26 of the Framework agreement.

If the total amount of earlier payments is lower than the final amount of the grant determined in accordance with Article II.25 of the Framework agreement, EUSPA must pay the balance within 90 calendar days from when it receives the documents referred to in Article 4.4, except if Article II.24.1 or II.24.2 of the Framework agreement apply.

Payment is subject to the approval of the request for payment of the balance and of the accompanying documents. Their approval does not imply recognition of the compliance, authenticity, completeness or correctness of their content.

EUSPA determines the amount due as the balance by deducting the total amount of pre-financing and interim payments (if any) already made from the final amount of the grant determined in accordance with Article II.25 of the Framework agreement.

The amount to be paid may, however, be offset, without the partner's consent, against any other amount owed by the partner to EUSPA up to the maximum contribution indicated for that partner, in the estimated budget in Annex II.

5.5 Notification of amounts due

EUSPA shall send a *formal notification* to the coordinator:

- (a) informing it of the amount due; and
- (b) specifying whether the notification concerns a further pre-financing payment, an interim payment or the payment of the balance.

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For the payment of the balance, EUSPA shall also specify the final amount of the grant determined in accordance with Article II.25 of the Framework agreement.

5.6 Interest on late payment

If EUSPA does not pay within the time limits for payment, the partners are entitled to late-payment interest at the rate applied by the European Central Bank for its main refinancing operations in euros ('the reference rate'), plus three and a half points. The reference rate is the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the *Official Journal of the European Union*.

Late-payment interest is not due if the partner is a Member State of the Union (including regional and local government authorities and other public bodies acting in the name of and on behalf of the Member State for the purpose of the Framework agreement and the Specific agreement).

If EUSPA suspends the time limit for payment as provided for in Article II.24.2 of the Framework agreement or if it suspends payments as provided for in Article II.24.1 of the Framework agreement, these actions may not be considered as cases of late payment.

Late-payment interest covers the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article 5.8. EUSPA does not consider payable interest when determining the final amount of grant within the meaning of Article II.25 of the Framework agreement.

As an exception to the first subparagraph, if the calculated interest is lower than or equal to EUR 200, it shall be paid to the coordinator only if the coordinator requests it within two months of receiving late payment.

5.7 Currency for payments

EUSPA must make payments in Euro.

5.8 Date of payment

Payments by EUSPA are considered to have been carried out on the date when they are debited to its account.

5.9 Costs of payment transfers

Costs of the payment transfers are borne as follows:

- (a) EUSPA bears the costs of transfer charged by its bank;
- (b) the partner bears the costs of transfer charged by its bank;

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- (c) the party causing a repetition of a transfer bears all costs of repeated transfers.

5.10 Payments to the coordinator

EUSPA must make payments to the coordinator. Payments to the coordinator discharge EUSPA from its payment obligation.

ARTICLE 6 – BANK ACCOUNT FOR PAYMENTS

All payments must be made to the partner's bank account as indicated below:

- Name of bank: [...]
- Precise denomination of the account holder: [...]
- Full account number (including bank codes): [...]
- [IBAN code: [...]]¹⁶

ARTICLE 7 - COMMUNICATION DETAILS OF THE PARTIES

7.1 Communication details of EUSPA

Any communication addressed to EUSPA shall be sent to the following address:

European Union Agency for the Space Programme
[name of the department in charge of the project]
Janovského 438/2
17000 Prague 7
Czech Republic
E-mail address: [insert email address or functional mailbox address]

7.2 Communication details of the partner

Any communication from EUSPA to the partners shall be sent to the following address:

- [Full name]
- [Function]
- [Name of the entity]

¹⁶ BIC or SWIFT code could be used for countries which do not use the IBAN code.

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[Full official address]

Email address: [complete]

[ARTICLE XX – ENTITIES AFFILIATED TO THE PARTNERS¹⁷

The following entities are considered as affiliated entities to the partners for the purpose of the Specific agreement:

- [name of the entity];
[idem for further affiliated entities]

SIGNATURES

For the coordinator

[function/forename/surname]

[signature]

Done in [place], [date]

For EUSPA

Rodrigo da Costa, Executive Director

[signature]

Done in Prague, [date]

In duplicate in English.

¹⁷ Please include this provision if the partner would involve different affiliated entities in the implementation of the different specific action grants. In this case please delete the similar provision related to affiliated entities from the Framework agreement.

The provision regarding affiliated entities does not apply to operating grants. In such a case, all references to "affiliated entities" in the provisions of the Specific agreement should be deleted before the model agreement is published as part of the call for proposals for award of operating grants.

Adding this special condition is indispensable in case the partner is a sole beneficiary formed by other entities in the sense of Article 187(2) FR. In this case the entities composing the partner, and actually implementing the action, are considered as affiliated entities with the right to incur eligible costs.

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ANNEX IV
MANDATE¹⁸

I, the undersigned,

[forename and surname of the legal representative of the future partner signing this mandate],
representing,

[full official name of the future partner] *[ACRONYM]*

[official legal status or form]¹⁹

[official registration No]²⁰

[full official address]

[VAT number],

(‘the partner’),

for the purposes of signing and implementing the Framework agreement and Specific agreements signed under it [Title & No] with the European Union Agency for the Space Programme (EUSPA) (‘the agreements’) for the action entitled [insert title of the action] (‘the *action*’)

hereby:

1. Mandate

[full official name of the coordinator] *[ACRONYM]*

[official legal status or form]

[official registration No]²¹

[full official address]

[VAT number],

¹⁸ One original version of this Annex to be included for each partner except for the coordinator.

¹⁹ To be deleted or filled out in accordance with the ‘Legal Entity’ form.

²⁰ To be deleted or filled out in accordance with the ‘Legal Entity’ form.

²¹ To be deleted or filled out in accordance with the ‘Legal Entity’ form.

Partner Initials	EUSPA Initials

represented by [forename, surname and function of the legal representative of the coordinator] ('the coordinator')

to sign in my name and on my behalf the agreements and their possible subsequent amendments with EUSPA.

2. Mandate the coordinator to act on behalf of the partner in compliance with the agreements.

I hereby confirm that the partner accepts all terms and conditions of the agreements and, in particular, all provisions affecting the coordinator and the other partners. In particular, I acknowledge that, by virtue of this mandate, the coordinator alone is entitled to receive funds from EUSPA and distribute the amounts corresponding to the partner's participation in the actions.

I hereby accept that the partner will do everything in its power to help the coordinator fulfil its obligations under the agreements, and in particular, to provide to the coordinator, on its request, whatever documents or information may be required.

I hereby declare that the partner agrees that the provisions of the agreements, including this mandate, take precedence over any other agreement between the partner and the coordinator which may have an effect on the implementation of the agreements.

This mandate is annexed to the Framework agreement and forms an integral part of it.

SIGNATURE

[forename, surname, function of the legal representative of the mandating partner]

[signature]

Done at [place], [date]

In duplicate in English]

Partner Initials	EUSPA Initials

ANNEX X - PRE-EXISTING INTELLECTUAL PROPERTY RIGHTS

NAME OF APPLICANT CONSORTIUM:

Name of Coordinator

Items	Definition/ Description of pre-existing intellectual property right	Owner	Specific limitations and/or conditions for implementation

Name of co-beneficiary

Items	Definition/ Description of pre-existing intellectual property right	Owner	Specific limitations and/or conditions for implementation

Partner Initials	EUSPA Initials