

**MODEL CONTRACT**  
**Accompanying Measures**  
**Single-partner version**

## CONTRACT NO

The European Community ("the Community"), represented by the Commission of the European Communities ("the Commission"), itself represented for the signature of this contract by [Mr (*name*)] [Ms (*name*)], Director-General for [*name of the DG*] or [his] [her] duly authorised representative,

of the one part

and

- [*name of contractor*] (*[acronym]*), established in [*name of State and full address*], represented by its legal/statutory/authorized representative[s], [Mr/Ms [*insert name*], [*function*], [Mr/Ms [*insert name*], [*function*],

of the other part,

(collectively "*the contracting parties*")

HAVE AGREED to a project called "[*name of project*]" to be carried out in the framework of the specific research and technological development programme "[*name of specific RTD programme*]" (the "specific programme") according to the following provisions.

## **Article 1 – Scope**

The *contractor*<sup>1</sup> shall carry out the work set out in Annex I to this contract [up to the milestone specified in Annex I] [up to [*specify the milestone*]] ("*the project*") in accordance with the conditions set out in this contract.

Subject to cases of *force majeure*, the *contractor* shall use reasonable endeavours to achieve the results aimed at by the *project*.

## **Article 2 – Duration**

1. The *duration of the project* shall be [*insert number*] months from [the first day of the month after the last signature of the *contracting parties*] [*insert date*].
2. This contract shall enter into force following its signature by the *contracting parties*.

This contract shall be completed on the date of the final payment of the Community's financial contribution. However,

- Articles 5, 6 and 8 of this contract,
- Article 2(1) subparagraph (1) points (c), (d), (f) and (h), Article 3(4) and (5), Article 4(5), Article 6, Articles 9 to 12, and Articles 16, and 17 of Annex II to this contract

shall continue to apply after that date to the extent of any limitations specified in those articles.

## **Article 3 - Estimated costs and maximum financial contribution of the Community**

1. The total estimated eligible costs of the *project* are [*insert amount*] EUR ([*insert amount in words*] euro).
2. The Community shall fund the eligible costs of the *project* in accordance with the table of the indicative breakdown of the estimated eligible costs which follows the signatures affixed to this contract up to a maximum of [*insert amount*] EUR ([*insert amount in words*] euro).

Where the *eligible costs* of the project are lower than the total estimated *eligible costs* for the project, the Community's financial contribution shall be limited to the amount which results from the application of the percentages of the financial participation as laid down in the indicative breakdown of estimated *eligible costs* which follows the signatures to this contract.

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<sup>1</sup> The terms in italics are used in accordance with the definition given in Article 1 of Annex II to this contract.

3. The Community's financial contribution to the *project* shall be paid as specified in Article 3 of Annex II to this contract to the *contractor's* following bank account:

[*Contractor's bank details*]

The initial advance for the *project* is fixed at [*insert amount*] EUR ([*insert amount in words*] euro).

The total amount of the initial advance and the periodic payments shall not exceed the maximum amount of the financial contribution referred to in paragraph (2) of this article, less a guarantee retention of 15% of the maximum amount of that contribution.

#### **Article 4 – *Project deliverables to be submitted to the Commission***

1. [[*insert number*] copies of the reports and [*insert number*] copies of the cost statements][[*insert number*] copies of the reports and of the cost statements] required under this contract shall be submitted by the *contractor* in accordance with Article 4 of Annex II to this contract. The reports shall be in [*insert language*].

Annex I shall determine the number of copies and the language of drafting of the other *project deliverables*.

2. The periodic and final report(s) and the corresponding cost statements shall cover [successive periods of [*insert number*] months from the *project commencement date*] [a first period ending on [*insert date*], and thereafter successive periods of [*insert number*] months].

Where the work is completed before the end of the *duration of the project*, the final report(s) and the corresponding cost statements shall cover the period ending on that date.

However, and without prejudice to subparagraphs 1 or 2 of this paragraph, the last cost statement shall also cover the period necessary for the drafting of the final report(s) within the maximum time limit of two months as of the end of the *duration of the project*.

The other *project deliverables* shall cover the periods set out in Annex I to this contract.

#### **Article 5 - Applicable law and jurisdiction**

1. The law of [*law of competent authorising officer*] shall govern this contract.
2. The Court of First Instance of the European Communities and, in the case of an appeal, the Court of Justice of the European Communities shall have sole jurisdiction to hear any disputes between the Community, on the one hand, and

the *contractor*, on the other hand, as regards the validity, the application or any interpretation of this contract.

### **Article 6 - Special conditions**

[ No special condition applies to this contract.]

[ The following special conditions apply to this contract :]

[The special conditions applying to this contract are set out in its Annex III.]

[In addition to the special conditions set out in Annex III, the following special conditions shall apply to this contract :]

### **Article 7 – Amendments**

This contract, including the annexes thereto, may be amended only by written agreement between the authorised representatives of the *contracting parties*. No verbal agreement may be binding on the *contracting parties* for this purpose.

Any request for amendment must be sent to the Commission at least two months before the expiry of the *duration of the project*.

### **Article 8 - Final provisions**

1. The following annexes are an integral part of this contract:

Annex I - Description of work

Annex II - General conditions

[Annex III - Special conditions]

2. In the event of any conflict between Annex I and any other provision of this contract, the latter shall take precedence.

[3. The special conditions set out in [Article 6][Annex III][Article 6 and Annex III] to this contract shall take precedence over any other provisions].

### **Article 9 - Signature and language of the contract**

[*number (minimum two)*] copies of the contract in [*insert language*] shall be signed by the *contracting parties* and only that language version shall be authentic.

Done at Brussels/Luxembourg,

On behalf of [*name and acronym of the contractor*]:

Name: (written out in full)

Title:

Signature:

(stamp of the organisation)

On behalf of the Commission:

Name: (written out in full)

Title:

Signature:

Date:

**Table – Advance**  
**Indicative breakdown of estimated *eligible costs***

			Rate of financial participation	Estimated <i>eligible costs</i> in euro	Maximum Community contribution in euro	Advance	Breakdown of estimated <i>eligible costs</i> by category								
							Personnel	Durable equipment	Sub-contracting	Travel and subsistence	Consumables	Computing	Protection of knowledge	Other specific costs	Overheads
<i>Contractor (name)</i>															
		(Sub-total)		_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
		TOTAL													

## ANNEX II - GENERAL CONDITIONS

### PART A: IMPLEMENTATION OF THE *PROJECT*

- Article 1 - Definitions
- Article 2 - Management of the *project*
- Article 3 - The Community's financial contribution
- Article 4 - Submission of *project deliverables*
- Article 5 - *Subcontracts*
- Article 6 - Liability
- Article 7 - Termination of the contract

### PART B: RULES RELATING TO INTELLECTUAL AND INDUSTRIAL PROPERTY, PUBLICITY AND CONFIDENTIALITY

OPTION I : Community financing : 100% of all costs – Community ownership of <i>knowledge</i>
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- Article 8.I - Ownership of *knowledge*
- Article 9.I - Protection of *knowledge*
- Article 10.I - *Dissemination of knowledge*
- Article 11.I - Publicity and communication of data in particular for standardisation purposes
- Article 12.I - Confidentiality

OPTION II : Community financing : 100% of all costs – <i>Contractor's</i> ownership of <i>knowledge</i>
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- Article 8.II - Ownership of *knowledge*
- Article 9.II - Protection of *knowledge*
- Article 10.II - *Dissemination of knowledge*
- Article 11.II - Publicity and communication of data in particular for standardisation purposes
- Article 12.II - Confidentiality

OPTION III : Community financing : less than 100% of all costs – <i>Contractor's</i> ownership of <i>knowledge</i>
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#### Sub-option 1

- Article 8.III - Ownership of *knowledge*
- Article 9.III - Protection of *knowledge*
- Article 10.III - *Dissemination of knowledge*
- Article 11.III - Publicity and communication of data in particular for standardisation purposes
- Article 12.III - Confidentiality

#### Sub-option 2

- Article 8.III - Ownership of *knowledge*

- Article 9.III - Protection of *knowledge*
- Article 10.III - *Use of knowledge*
- Article 11.III - Publicity and communication of data in particular for standardisation purposes
- Article 12.III - Confidentiality

PART C: REIMBURSEMENT OF COSTS

- Article 13 - Eligible costs - general principles
- Article 14 - Direct costs
- Article 15 - Indirect costs
- Article 16 - Justification of costs

PART D: AUDITING

- Article 17 - Financial audit
- Article 18 - Technical verification of the *project*

PART E-1: MODEL COST STATEMENT

## **PART A: IMPLEMENTATION OF THE *PROJECT***

### **Article 1 - Definitions**

1. "*Decision*" means Council Decision 1999/65/EC of 22 December 1998 concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998 to 2002)<sup>2</sup>.
2. "*Regulation*" means Commission Regulation (EC) No 996/99 of 11 May 1999 on the implementation of Council Decision 1999/65/EC concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998-2002)<sup>2</sup>.
3. "*Contracting parties*" means the Community and the *contractor*.
4. "*Contractor*" means a legal entity, an international organisation, or the Joint Research Centre (JRC), which has concluded this contract with the Community.
5. "*Subcontract*" means an agreement to provide services, supplies or goods concluded between the *contractor* and one or more *subcontractors* for the specific needs of the *project*.
6. "*Subcontractor*" means a legal entity, an international organisation or the JRC, which has concluded a *subcontract*.
7. "*Project*" means all the work referred to in Annex I to this contract.
8. "*Project commencement date*" means the date referred to in Article 2(1) of this contract.
9. "*Duration of the project*" means the period of performance of the *project* as referred to in Article 2(1) of this contract.
10. "*Contract completion date*" means the date referred to in Article 2(2) subparagraph 2 of this contract.
11. "*Project deliverables*" means the reports and the cost statements referred to in Article 4 of this contract and Article 4 of this annex as well as any element designated as such in Annex I to this contract.
12. "*Associated State*" means a State party to an international agreement concluded with the Community, in particular on the basis of Article 170 of the Treaty establishing the European Community, under which that State makes a financial contribution to the Fifth Framework Programme.

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<sup>2</sup> OJ L 26, 1.2.1999, p. 46.

<sup>2</sup> OJ L 122, 12.5.1999, p. 9.

13. "*Third country*" means a country other than a Member State or an *Associated State*.
14. "*Change of control*" means any change in the control exercised over a *contractor*, in the sense of Article 5(1) subparagraph 3 of the *Regulation*. Such control may result, *inter alia* from:
  - the direct or indirect holding of a majority of the share capital of the *contractor* or a majority of the voting rights of the latter's shareholders or associates,
  - or
  - the direct or indirect holding, *de facto* or *de jure*, of decision-making powers within the *contractor*.
15. "*Force majeure*" means any unforeseeable and insuperable event affecting the carrying out of the *project* by the *contractor*.
16. The "*interests of the Community*" are to be assessed in particular with regard to:
  - the objective of strengthening the international competitiveness of Community industry,
  - the objective of providing appropriate incentives for maintaining and creating jobs in the Community,
  - the objective of promoting sustainable development and improving the quality of life in the Community,
  - the needs of other Community policies in support of which indirect RTDT actions are carried out,
  - the existence of scientific and technical cooperation agreements between the Community and third countries or international organisations.
17. "*Knowledge*" means the results, including information, arising from any *project* covered by Decision No 182/1999/EC of the European Parliament and Council of 22 December 1998 relating to the Fifth Framework Programme of the European Community for research, technological development and demonstration activities (1998 to 2002)<sup>3</sup> as well as copyright or rights attaching to the results following applications for or the issue or registration of patents, designs and models, plant varieties, additional certificates or other similar forms of protection.
18. "*Pre-existing know-how*" means information, other than *knowledge*, held by the *contractor* prior to the conclusion of the contract or acquired in parallel with it and necessary for carrying out the *project*, as well as copyright or rights attaching to such information following requests for or the issue of patents,

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<sup>3</sup> OJ L 26, 1.2.1999, p. 1.

designs and models, plant varieties, additional certificates or other similar forms of protection.

19. "*Complementary contract*" means a contract concluded with the Community in respect of work technically related to the *project*, including for *use* purposes, and recognised as being complementary in writing by the contractor to each contract.
20. "*Complementary contractor*" means a legal entity or an international organisation or the JRC, which has concluded a *complementary contract*.
21. "*Use*" means the direct or indirect use of *knowledge* in research activities or for *exploitation* purposes.
22. "*Exploitation*" means the direct or indirect use of *knowledge* for creating and marketing a product or process or for creating and providing a service.
23. "*Dissemination*" means the divulging of *knowledge* by any appropriate means other than publication resulting from *knowledge* protection formalities, with a view to promoting scientific and technical progress.
24. "*Legitimate interest*" means any interest, in particular of a commercial nature, of a *contractor* which may be invoked where provided for in this annex provided that he demonstrates that the damage to that interest is likely, given the circumstances, to cause a specific prejudice that is disproportionate, considering the objectives of the provision in respect of which it is invoked.
25. "*Eligible costs*" means the costs indicated in Articles 14 and 15 of this annex, in compliance with the conditions set out in Articles 13(1) to (4) thereof.

## **Article 2 - Management of the *project***

1. The *contractor*:
  - a) shall inform the Commission of the actual date of commencement of the work and shall designate one or more persons from among those referred to in Article 14(1) of this annex who shall direct his work and ensure that the tasks assigned are correctly performed,
  - b) shall submit to the Commission:
    - the cost statements provided for in Article 4 of this contract and of this annex,
    - the periodic, final and supplementary reports provided for in Article 4 of this contract and of this annex after verifying their consistency with any corresponding cost statements,
    - any other *project deliverable* except where Annex I to this contract provides otherwise,

- c) shall receive all the payments made by the Commission to the account referred to in Article 3(3) subparagraph (1) of this contract,
  - d) shall inform the Commission of any event liable to substantially affect the *project* of which he is aware, including any change in a person referred to in point (a) of this paragraph, any *change of control* with regard to him and any circumstance affecting the conditions of participation referred to in Articles 3 to 12 of the *Decision*,
  - e) shall inform the Commission of transfers between categories in the budget set out in the table of the indicative breakdown of the estimated eligible costs, as soon as he has carried out such transfers in compliance with the conditions set out in Article 13(4) of this annex,
  - f) shall keep duly signed original copies of *subcontracts*, if any have been concluded,
  - g) shall take part in meetings concerning the supervision, monitoring and evaluation of the *project* which are relevant to him,
  - h) shall provide all detailed information requested by the Commission for the purposes of the proper administration of this contract.
2. The Commission may be assisted by independent experts in the framework of the meetings referred to under paragraph (1)(g) of this article.

It shall take appropriate steps to ensure that such experts treat confidentially the data that are communicated to them. Prior to such meetings, it shall disclose the identity of the experts scheduled to attend. It shall take account of any objection on the part of *contractor* based on *legitimate interests*.

### **Article 3 - The Community's financial contribution**

1. The Community's financial contribution shall be paid in accordance with the following principles :
- a) An initial advance shall be paid to the *contractor* within a maximum period of 60 days running from the date of the last signature of the *contracting parties*.

If the *project* has not effectively commenced within three months of the payment of the initial advance, the Commission may :

- (i) either terminate the contract pursuant to Article 7(3)(a) of this annex,
- (ii) or decide to add interest to the initial advance from the date of payment until the effective date of commencement of the work at the monthly rate applied by the European Central Bank for its main refinancing operations applicable on the first day of the month during which the

three-month time limit has expired. Such interest shall be deducted from the subsequent payment made by the Commission.

- b) Periodic payments shall be made within a maximum period of 60 days from the date on which the Commission approves or is deemed, in accordance with Article 4(3) subparagraph 4 of this annex, to have approved the periodic reports and the corresponding cost statements, or other *project deliverables*.

The amounts of the periodic payments shall be calculated on the basis of the eligible costs approved by the Commission. When each periodic payment is made, an amount corresponding to part of the initial advance shall be retained, calculated on the basis of the relationship between the eligible costs approved by the Commission and the forecasts of expenses for the period in question.

- c) The final payment of the Community's financial contribution shall be made within a maximum period of 60 days from the date on which the Commission approves or is deemed, in accordance with Article 4(3) subparagraph 4 of this annex, to have approved the last *project deliverable*.

The final payment shall correspond to the difference between the total amount of eligible costs approved by the Commission and the amount of the initial advance and the periodic payments. However, the Community's total financial contribution may not exceed the maximum amount provided for in Article 3(2) of this contract.

The payments referred to at points (a) to (c) of this paragraph shall be regarded as having been effected on the date on which the Commission's account is debited.

The Commission may suspend the period of 60 days referred to under (b) and (c) of this paragraph at any time by notifying the *contractor* that it considers that additional checks should be carried out. The period shall continue to run once the Commission has completed the additional checks.

On expiry of the period provided for and without prejudice to subparagraph 3 of this paragraph, the *contractor*, may claim, within two months of receiving the late payment, interest at the rate applied by the European Central Bank for its main refinancing operations on the first day of the month during which the time limit has expired, plus one and a half percentage points. The interest shall cover the period running from the day after the time limit for payment until the date of actual payment.

2. Where the Commission suspects fraud or serious financial irregularity on the part of the *contractor*, it may suspend payments . The *contractor* shall remain bound by his contractual obligations.
3. Subject to Article 17 of this annex, all payments shall be treated as advances until the last *project deliverable* is approved.
4. Where the total financial contribution due from the Community, taking into account any adjustments, including as a result of a financial audit as provided for

in Article 17 of this annex, is less than the total amount of the payments referred to in paragraph (1) subparagraph (1) of this article, the *contractor* shall reimburse the difference in euro, within the time limit set by the Commission in its request sent by registered letter with acknowledgement of receipt.

In the event of non-reimbursement by the *contractor* within the time limit set by the Commission, the latter shall add interest to the sums due at the rate applied by the European Central Bank for its main refinancing operations on the first day of the month during which the time limit set by the Commission has expired, plus one and a half percentage points, unless interest is due pursuant to another provision of this contract. The interest shall cover the period running from the day after the expiry of the time limit until the date of receipt of the funds to be reimbursed.

Bank charges resulting from any reimbursement of sums due to the Community shall be borne exclusively by the *contractor*.

A recovery order regarding payments made by the Commission drawn up by the latter and transmitted to the *contractor* who owes an amount to be reimbursed shall be enforceable within the meaning of Article 256 of the Treaty establishing the European Community.

The Commission may decide to set off sums to be reimbursed to the Community against sums of any kind due to the *contractor*.

5. After the *contract completion date* or the termination of the contract, the Commission may or shall, as appropriate, request from the *contractor* repayment of the entire Community contribution paid to it, where fraud or serious financial irregularities are discovered in the course of an audit. Interest at a rate 2% higher than the rate applied by the European Central Bank for its main refinancing operations on the first day of the month during which the *contractor* received the funds will be added to the amount to be repaid. The interest shall cover the period between the receipt of the funds and their repayment.

#### **Article 4 - Submission of *project deliverables***

1. Where reports are concerned:
  - a) The following reports shall be submitted for approval by the Commission :
    - (i) periodic reports containing information about the progress of work, resources employed, departures from the work schedule, and results,
    - (ii) supplementary reports containing information required by Annex I to this contract,
    - (iii) a final report covering all the work, objectives, results and conclusions, including a summary of all the latter,

- (iv) where the reports referred to in points (i) to (iii) cannot be published in full, they shall, in addition, be presented in a suitable form for publication by the *contracting parties*. The final report suitable for publication shall include sufficient information on new developments to enable third parties established in the Member States or in *Associated States* to be informed of opportunities to request licences in respect of *knowledge*.
  - b) The layout of the reports shall conform to the rules communicated by the Commission. The reports for publication should be of a suitable quality to enable direct reproduction.
2. Where the cost statements are concerned:
- a) The cost statements shall be expressed in euro and in the currency used in the accounting of the *contractor*. The euro conversion and exchange rates for cost statements and related payments shall be the rates published by the Commission for the implementation of the budget and in force on the first working day of the month following the period covered by the cost statement concerned. No account shall be taken of exchange rate gains or losses between the time of establishment of the cost statement and the receipt of the corresponding payment.
  - b) The *contractor* shall submit his cost statements to the Commission in the format specified in part E-1.

A *contractor* who does not benefit from a financial contribution from the Community is required to submit only a description of the efforts deployed and the resources used in order to carry out the *project*.

3. Each periodic report and the corresponding cost statements, as well as each supplementary report, shall be submitted to the Commission within two months of the end of the period covered by the report.

The final report(s) and the cost statements for the final period shall be submitted to the Commission within two months of the end of the *duration of the project*.

The other *project deliverables* shall be submitted by the deadlines specified in Annex I to this contract.

In the absence of observations by the Commission, the *project deliverables* shall be deemed to be approved within two months of their receipt.

4. The Commission reserves the right to withhold part or, exceptionally, all of the payment of the Community's financial contribution until the period covered by the next cost statement in case of failure to submit, within the time period specified in paragraph (3) of this article or in Annex I, as relevant, a cost statement or a periodic report or other *project deliverable*.

The Commission may decide not to make the payment corresponding to the costs incurred during the final period in case of failure to submit, within the time period specified in paragraph (3) of this article:

- the cost statements for the final period,
- the final report(s) or other *project deliverable*

subject to one month's written notice of non-receipt of that document.

#### **Article 5 – Subcontracts**

1. The *contractor* may conclude *subcontracts* where this proves necessary for the performance of his work.

Unless Annex I to this contract contains sufficient detailed data, the Commission's prior written approval is required:

(a) where the cumulative amount of the *subcontracts* of the *contractor* exceeds:

- 20% of his estimated eligible costs,
- 100 000 EUR,

whichever amount is the lowest.

(b) where the *subcontractor* is established in a *third country*, unless the *contractor* is established there.

The Commission's approval shall be deemed to be granted in the absence of observations within one month of receipt of the request made by the *contractor*.

2. The *contractor* shall ensure that *subcontracts* include an obligation for the *subcontractors*:
  - to submit invoices making reference to the *project* and giving details of the service or supply concerned,
  - to submit to the audits provided for in Articles 17 and 18 of this Annex.

#### **Article 6 – Liability**

1. The liability of the *contracting parties* amongst themselves with regard to any losses, damages or injuries suffered in the context of the performance of this contract shall be governed by the law designated in its Article 5(1).
2. The measures to be taken in the event of *force majeure* shall be agreed between the *contracting parties*.

The *contracting parties* expressly agree that any defect in respect of a product or service used in the performance of this contract and affecting such performance, including, for example, anomalies in the functioning or performance of such product or service resulting from or linked to the changeover to the year 2000, does not constitute *force majeure*.

3. The Community cannot be held responsible for acts or omissions of the *contractor* in the performance of this contract. It shall not be answerable for any defects in respect of products or services, if any, created on the basis of *knowledge* resulting from the *project*, including, for example, anomalies in the functioning or performance thereof resulting from or linked to the changeover to the year 2000.

The *contractor* shall fully guarantee the Community, and shall undertake to indemnify it in the event of any action, complaint or proceeding brought by a third party against it as a result of damage caused either by an act or omission of the *contractor* in the performance of this contract or on account of products or services, if any, created on the basis of *knowledge* resulting from the *project*, to the extent that the *contractor* has contributed to or is held responsible for the loss or damage concerned.

In the event of any action brought by a third party against the Community in connection with the performance of this contract, the *contractor* who may be answerable shall be required to assist the latter.

4. In the event of any action brought by a third party against the *contractor* in connection with the performance of this contract, the Commission may, without prejudice to paragraph (1) of this article, assist the latter upon written request. The costs incurred by the Commission in this connection shall be borne by the *contractor*.

## **Article 7 - Termination of the contract**

1. The Commission may terminate the contract:
  - a) for major technical or economic reasons substantially affecting the *project* (including where the resumption of the performance of the contract following its suspension on account of *force majeure* proves impossible),
  - b) if the *use* potential of the results of the *project* considerably diminishes.

The Commission shall determine the notice period in a registered letter with acknowledgement of receipt, which period shall not exceed one month from the date of receipt of such letter.

2. The Commission shall not object to the termination of the contract, at the written request of the *contractor* on the grounds mentioned in paragraph (1) of this article.

The termination of the contract shall be effective:

- on the date of the letter of acceptance by the Commission notified by registered letter with acknowledgment of receipt,
  - at the latest one month following receipt of notification by the *contractor* in the absence of written observations by the Commission within this time limit.
3. The Commission may immediately terminate this contract from the date of receipt of the registered letter with acknowledgment of receipt
    - (a) where the *project* has not effectively commenced within three months of the payment of the initial advance and the new date proposed is deemed unacceptable by the Commission,
    - (b) where the *contractor* has not fully performed his obligations after a written request by the Commission to rectify the situation within a period not exceeding one month,
    - (c) where a *change of control* over the *contractor* is likely to substantially affect the *project* or the *interests of the Community*,
    - (d) in the event of bankruptcy, of winding up, of cessation of trading, of winding up by court order or composition, suspension of activities of the *contractor* or any similar proceeding provided for by national laws or regulations and leading to a similar result,
    - (e) in the event of a major financial irregularity.
  4. The Commission shall immediately terminate this contract from the date of receipt of the registered letter with acknowledgement of receipt:
    - a) where the conditions for participation in the *project* mentioned in Articles 3 to 12 of the *Decision* are no longer satisfied, unless it considers that the *project* is essential to the implementation of the specific programme,
    - b) where the *contractor* has made false declarations for which he may be held responsible or has deliberately withheld information in order to obtain the Community's financial contribution or any other advantage provided for in the contract.
  5. Any letter from the Commission to terminate the contract shall be addressed to the *contractor* in accordance with the procedures set out in paragraphs (1) to (4) of this article.
  6. The *contractor* shall take appropriate action to cancel or reduce his commitments, upon receipt of the letter from the Commission notifying him of the termination of the contract or upon the dispatch of his termination request.

In the event of termination of the contract, the Community's financial contribution shall cover eligible costs relating to *project deliverables* approved by the

Commission and also eligible costs subsequently incurred in good faith before the date mentioned in subparagraph (1) of this paragraph.

In the event of termination of the contract:

- (a) pursuant to paragraph (3)(b) or (d) of this article, the Commission may require reimbursement of all or part of the Community's financial contribution, taking into account the nature and results of the work carried out and its usefulness to the Community in the context of the specific programme concerned,
  - (b) pursuant to paragraph (3)(c) or paragraph (4)(a) of this article, only the eligible costs relating to *project deliverables* approved by Commission and incurred before the event which caused the termination of the contract, and also eligible costs subsequently incurred in good faith before the date mentioned in subparagraph (1) of this paragraph, shall be reimbursable,
  - (c) pursuant to paragraph 3(a) or (e) or paragraph 4(b) of this article, the Commission may require reimbursement of all or part of the Community's financial contribution. Interest at a rate of 2% above the rate applied by the European Central Bank for its main refinancing operations on the first day of the month during which the *contractor* received the funds will be added to the amount to be repaid. The interest shall cover the period between the receipt of the funds and their repayment.
7. Notwithstanding the termination of the contract, the following provisions shall continue to apply after that date subject to the limits specified therein, as the case may be :
- Articles 5, 6 and 8 of this contract, and
  - Article 2(1) subparagraph (1) points (c), (d), (f) and (h), Article 3(4) and (5), Article 6, Articles 9 to 12, and Articles 16 and 17 of this annex.

The *contractor* shall submit the *project deliverables* relating to the work performed until the date of termination of the contract.

**PART B : RULES RELATING TO INTELLECTUAL AND INDUSTRIAL  
PROPERTY, PUBLICITY AND CONFIDENTIALITY**

OPTION I : Community financing : 100% of all costs – Community ownership of <i>knowledge</i>
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**Article 8.I - Ownership of *knowledge***

1. *Knowledge* resulting from the *project* shall be owned by the Community. The *contractor* undertakes to grant such right to the Community.
2. At the request of the contractor, the Commission may authorise him to use the *knowledge* belonging to it that results from the *project*, on a royalty-free basis, for all his internal needs.

Such authorisation may be made conditional on the conclusion of a specific agreement aimed at ensuring that the information is used only for the intended purpose, and appropriate confidentiality agreements.

3. If persons employed by the *contractor* may claim rights to *knowledge* resulting from the *project*, the *contractor* shall take steps or reach appropriate agreements to ensure that these rights are exercised in a manner compatible with its obligations under this contract.
4. The *contractor* shall indicate to the Commission the *pre-existing know-how*, in particular the copyrights, relating to any document, on whatever medium, drawn up in the framework of the *project*.

Where the *contractor* may not freely dispose of such *pre-existing know-how*, he shall beforehand take the necessary steps to obtain the authorisation to dispose thereof in compliance with his obligations under this contract and shall confirm this to the Commission.

The *contractor* shall bear any reasonable cost in connection with obtaining such authorisation or for which he may be held liable.

**Article 9.I - Protection of *knowledge***

The Commission shall provide adequate and effective protection for *knowledge* which it owns, for an appropriate duration, in accordance with any applicable regulation or convention.

**Article 10.I - Dissemination of *knowledge***

The Commission shall ensure that *knowledge* which it owns and which lends itself to dissemination is disseminated.

**Article 11.I - Publicity and communication of data in particular for standardisation purposes**

1. The Commission may publish, by any appropriate means and for as long as necessary, general data relating in particular to the objectives, the estimated total cost, the duration and the state of progress of the *project*, to the Community's financial contribution and to the *knowledge* described in the final report. The legal designation of *the contractor* and the names of the laboratories carrying out the work shall also be published unless they object to this in advance on the basis of essential *legitimate interests*.

Where the measures referred to in subparagraph (1) presuppose access by the Commission or its duly authorised representatives to the premises of *the contractor*, the latter may refuse such access on the basis of *legitimate interests*.

2. Any communication or publication, whatever the form or medium (including the Internet), concerning the state of progress with the *project* or concerning the *knowledge*:
  - shall mention the relevant specific programme and the support provided by the Community,
  - and
  - shall, where it is made by the *contractor*, specify that the information provided is the sole responsibility of the author and does not reflect the Community's opinion, and that the Community is not responsible for any use that might be made of data appearing in this communication or publication.

Where the utilisation of the European emblem is envisaged, it shall require prior approval by the Commission. Standards, in particular with regard to graphics, in force within the Commission must be complied with.

3. Without prejudice to the provisions regarding the protection and/or use of *knowledge*, and confidentiality, the *contractor* must inform the Commission and the standardisation bodies without delay of *knowledge* resulting from the *project* which may contribute to the preparation of European or, where appropriate, international standards, or to an industrial consensus on technical issues. To this end, he shall communicate appropriate data on such *knowledge* to the Commission and to the standardisation bodies during the entire duration of the contract and the two years following the *contract completion date*.

The provisions of this contract shall be without prejudice to the rules applicable, within the standardisation bodies, to data transmitted to them.

**Article 12.I - Confidentiality**

1. Without prejudice to Articles 10.I and 11.I of this annex and any other obligation contained in this contract, the *contracting parties* shall be required to keep

confidential any data, *knowledge*, documents and *pre-existing know-how* communicated to them on a confidential basis or the disclosure of which may be prejudicial to one of them.

This obligation shall no longer apply:

- where the content of such data, *knowledge* and documents or *pre-existing know-how* becomes publicly available through work or actions lawfully performed outside this contract and not based on activities under it,
  - where such data, *knowledge* and documents and *pre-existing know-how* have been communicated without any confidentiality restrictions or where the disclosing party subsequently waives their confidentiality.
2. Where this contract provides for the communication of any data, *knowledge*, *pre-existing know-how* or document referred to in paragraph (1) of this article, the *contracting parties* shall first satisfy themselves that the recipient will keep it confidential and use it only for the purpose for which it is communicated.

OPTION II : Community financing : 100% of all costs – <i>Contractor's</i> ownership of <i>knowledge</i>
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**Article 8.II - Ownership of *knowledge***

1. *Knowledge* resulting from the *project* shall be the property of the *contractor* carrying out the work generating that *knowledge*.
2. If persons employed by the *contractor* may claim rights to *knowledge*, the latter shall take steps or reach appropriate agreements to ensure that these rights are exercised in a manner compatible with its obligations under this contract.
3. On request and without prejudice to paragraph (5), the *contractor* shall grant the Commission an irrevocable right, on a royalty-free basis, to translate, reproduce, use, publish and distribute any document, on whatever medium, drawn up in the framework of the *project*.
4. The *contractor* shall indicate to the Commission the *pre-existing know-how*, in particular the copyrights, relating to any document, on whatever medium, drawn up in the framework of the *project*.

Where the *contractor* may not freely dispose of such *pre-existing know-how*, he shall beforehand take the necessary steps to obtain the authorisation to dispose thereof in compliance with his obligations under this contract and shall confirm this to the Commission.

The *contractor* shall bear any reasonable cost in connection with obtaining such authorisation or for which he may be held liable.

**Article 9.II - Protection of *knowledge***

The *contractor* who owns *knowledge* shall provide adequate and effective protection for such *knowledge*, in particular in the case of joint ownership, for an appropriate duration, in accordance with any applicable regulation or convention.

**Article 10.II - Dissemination of *knowledge***

The Commission shall ensure that *knowledge* which lends itself to *dissemination* is disseminated by the *contractor* through any appropriate means. As the case may be, the Commission may itself ensure the *dissemination* of such *knowledge*.

The *contractor* shall agree with the Commission on the terms of the *dissemination* of the *knowledge* within a reasonable time limit, in accordance with the need to safeguard intellectual and industrial property rights, confidentiality, and taking into account the benefits of swift *dissemination* and the *legitimate interests* of the *contractor*.

**Article 11.II - Publicity and communication of data in particular for standardisation purposes**

1. The Commission may publish, by any appropriate means and for as long as necessary, general data relating in particular to the objectives, the estimated total cost, the duration and the state of progress of the *project*, to the Community's financial contribution and to the *knowledge* described in the final report. The legal designation of *the contractor* and the names of the laboratories carrying out the work shall also be published unless they object to this in advance on the basis of essential *legitimate interests*.

Where the measures referred to in subparagraph (1) presuppose access by the Commission or its duly authorised representatives to the premises of *the contractor*, the latter may refuse such access on the basis of *legitimate interests*.

2. Any communication or publication, whatever the form or medium (including the Internet), concerning the state of progress with the *project* or concerning the *knowledge*:
  - shall mention the relevant specific programme and the support provided by the Community,
  - and
  - shall, where it is made by the *contractor*, specify that the information provided is the sole responsibility of the author and does not reflect the Community's opinion, and that the Community is not responsible for any use that might be made of data appearing in this communication or publication.

Where the utilisation of the European emblem is envisaged, it shall require prior approval by the Commission. Standards, in particular with regard to graphics, in force within the Commission must be complied with.

3. Without prejudice to the provisions regarding the protection and/or use of *knowledge*, and confidentiality, *the contractor* must inform the Commission and the standardisation bodies without delay of *knowledge* resulting from the *project* which may contribute to the preparation of European or, where appropriate, international standards, or to an industrial consensus on technical issues. To this end, he shall communicate appropriate data on such *knowledge* to the Commission and to the standardisation bodies during the entire duration of the contract and the two years following the *contract completion date*.

The provisions of this contract shall be without prejudice to the rules applicable, within the standardisation bodies, to data transmitted to them.

**Article 12.II - Confidentiality**

1. Without prejudice to Articles 10.II and 11.II of this annex and any other obligation contained in this contract, the *contracting parties* shall be required to

keep confidential any data, *knowledge* and documents and *pre-existing know-how* communicated to them on a confidential basis or the disclosure of which may be prejudicial to one of them.

This obligation shall no longer apply:

- where the content of such data, *knowledge* and documents and *pre-existing know-how* becomes publicly available through work or actions lawfully performed outside this contract and not based on activities under it,
  - where such data, *knowledge* and documents and *pre-existing know-how* have been communicated without any confidentiality restrictions or where the disclosing party subsequently waives their confidentiality.
2. Where this contract provides for the communication of any data, *knowledge*, *pre-existing know-how* or document referred to in paragraph (1) of this article, the *contracting parties* shall first satisfy themselves that the recipient will keep it confidential and use it only for the purpose for which it is communicated.

OPTION III : Community financing : less than 100% of all costs – <i>Contractor's</i> ownership of <i>knowledge</i>
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**Sub-option 1 : Dissemination-oriented**

**Article 8.III.1 - Ownership of *knowledge***

1. *Knowledge* resulting from the *project* shall be the property of the *contractor* carrying out the work generating that *knowledge*.
2. If persons employed by the *contractor* may claim rights to *knowledge* resulting from the *project*, the *contractor* shall take steps or reach appropriate agreements to ensure that these rights are exercised in a manner compatible with its obligations under this contract.
3. On request and without prejudice to paragraph (5), the *contractor* shall grant the Commission an irrevocable right, on a royalty-free basis, to translate, reproduce, use, publish and distribute any document, on whatever medium, drawn up in the framework of the *project*.
4. The *contractor* shall indicate to the Commission the *pre-existing know-how*, in particular the copyrights, relating to any document, on whatever medium, drawn up in the framework of the *project*.

Where the *contractor* may not freely dispose of such *pre-existing know-how*, he shall beforehand take the necessary steps to obtain the authorisation to dispose thereof in compliance with his obligations under this contract and shall confirm this to the Commission.

The *contractor* shall bear any reasonable cost in connection with obtaining such authorisation or for which he may be held liable.

**Article 9.III.1 - Protection of *knowledge***

The *contractor* who owns *knowledge* resulting from the *project* shall provide adequate and effective protection for such *knowledge*, in particular in the case of joint ownership, for an appropriate duration, in accordance with any applicable regulation or convention.

**Article 10.III.1 - Dissemination of *knowledge***

The Commission shall ensure that *knowledge* resulting from the *project* and which lends itself to *dissemination* is disseminated by the *contractor* through any appropriate means. As the case may be, the Commission may itself ensure the *dissemination* of such *knowledge*.

The *contractor* shall agree with the Commission on the terms of the *dissemination* of the *knowledge* within a reasonable time limit, in accordance with the need to safeguard intellectual and industrial property rights, confidentiality, and taking into account the benefits of swift *dissemination* and the *legitimate interests* of the *contractor*.

#### **Article 11.III.1 - Publicity and communication of data in particular for standardisation purposes**

1. The Commission may publish, by any appropriate means and for as long as necessary, general data relating in particular to the objectives, the estimated total cost, the duration and the state of progress of the *project*, to the Community's financial contribution and to the *knowledge* described in the final report. The legal designation of the *contractor* and the names of the laboratories carrying out the work shall also be published unless the *contractor* objects to this in advance on the basis of essential *legitimate interests*.

Where the measures referred to in subparagraph (1) presuppose access by the Commission or its duly authorised representatives to the premises of *the contractor*, the latter may refuse such access on the basis of *legitimate interests*.

2. Any communication or publication, whatever the form or medium (including the Internet), concerning the state of progress with the *project* or concerning the *knowledge* generated:
  - shall mention the relevant specific programme and the support provided by the Community,
  - and
  - shall, where it is made by the *contractor*, specify that the information provided is the sole responsibility of the author and does not reflect the Community's opinion, and that the Community is not responsible for any use that might be made of data appearing in this communication or publication.

Where the utilisation of the European emblem is envisaged, it shall require prior approval by the Commission. Standards, in particular with regard to graphics, in force within the Commission must be complied with.

3. Without prejudice to the provisions regarding the protection and/or use of *knowledge*, and confidentiality, *the contractor* must inform the Commission and the standardisation bodies without delay of *knowledge* resulting from the *project* which may contribute to the preparation of European or, where appropriate, international standards, or to an industrial consensus on technical issues. To this end, he shall communicate appropriate data on such *knowledge* to the Commission and to the standardisation bodies during the entire duration of the contract and the two years following the *contract completion date*.

The provisions of this contract shall be without prejudice to the rules applicable, within the standardisation bodies, to data transmitted to them.

#### **Article 12.III.1 - Confidentiality**

1. Without prejudice to Articles 10.III.1 and 11.III.1 of this annex and any other obligation contained in this contract, the *contracting parties* shall be required to keep confidential any data, *knowledge*, documents and *pre-existing know-how* communicated to them on a confidential basis or the disclosure of which may be prejudicial to one of them.

This obligation shall no longer apply:

- where the content of such data, *knowledge*, documents and *pre-existing know-how* becomes publicly available through work or actions lawfully performed outside this contract and not based on activities under it,
  - where such data, *knowledge*, documents and *pre-existing know-how* have been communicated without any confidentiality restrictions or where the disclosing party subsequently waives their confidentiality.
2. Where this contract provides for the communication of any data, *knowledge*, *pre-existing know-how* or document referred to in paragraph (1) of this article, the Commission and the *contractor* shall first satisfy themselves that the recipient will keep it confidential and use it only for the purpose for which it is communicated.

#### **Sub-option 2 : Use-oriented**

#### **Article 8.III.2 - Ownership of *knowledge***

1. *Knowledge* resulting from the *project* shall be the property of the *contractor* carrying out the work generating that *knowledge*.
2. If persons employed by the *contractor* may claim rights to *knowledge* resulting from the *project*, the latter shall take steps or reach appropriate agreements to ensure that these rights are exercised in a manner compatible with its obligations under this contract.
3. On request and without prejudice to paragraph (5), the *contractor* shall grant the Commission an irrevocable right, on a royalty-free basis, to translate, reproduce, use, publish and distribute any document, on whatever medium, drawn up in the framework of the *project*.
4. The *contractor* shall indicate to the Commission the *pre-existing know-how*, in particular the copyrights, relating to any document, on whatever medium, drawn up in the framework of the *project*.

Where the *contractor* may not freely dispose of such *pre-existing know-how*, he shall beforehand take the necessary steps to obtain the authorisation to dispose thereof in compliance with his obligations under this contract and shall confirm this to the Commission.

The *contractor* shall bear any reasonable cost in connection with obtaining such authorisation or for which he may be held liable.

#### **Article 9.III.2 - Protection of *knowledge***

1. The *contractor* who owns *knowledge* resulting from the *project* shall provide adequate and effective protection for such *knowledge* for an appropriate duration, in accordance with any applicable regulation or convention.
2. The *contractor* may publish, or allow the publication of, data, on whatever medium, concerning *knowledge* which he owns provided that this does not affect the protection of that *knowledge*.

The *contracting parties* shall have, in good time, prior warning of any planned publication and the scheduled date thereof. A copy of the medium containing these data shall be communicated to them if they so request within 30 days as of receiving such warning. They may oppose such publication on the grounds of properly justified objections within a new period of 30 days as of receiving such data where, from their point of view, it would adversely affect the protection of the *knowledge* as referred to in paragraph (1) of this article.

#### **Article 10.III.2 - Use of *knowledge***

1. The *contractor* shall use the *knowledge* which he owns, or cause such *knowledge* to be used, within a reasonable time limit in accordance with the *interests of the Community* and in line with international agreements concluded with the Community.
2. If the *knowledge* is not used in accordance with the terms and time limit referred to under paragraph (1) of this article, the *contractor* shall disseminate it, in accordance with :
  - the need to safeguard intellectual and industrial property rights,
  - confidentiality,

and taking into account the benefits of swift *dissemination* and his *legitimate interests*.

Should the *contractor* fail to do so, the Commission shall disseminate the *knowledge* itself at the same conditions.

**Article 11.III.2 - Publicity and communication of data in particular for standardisation purposes**

1. The Commission may publish, by any appropriate means and for as long as necessary, general data relating in particular to the objectives, the estimated total cost, the duration and the state of progress of the *project*, to the Community's financial contribution and to the *knowledge* described in the final report. The legal designation of the *contractor* and the names of the laboratories carrying out the work shall also be published unless they object to this in advance on the basis of essential *legitimate interests*.

Where the measures referred to in subparagraph (1) presuppose access by the Commission or its duly authorised representatives to the premises of *the contractor*, the latter may refuse such access on the basis of *legitimate interests*.

2. Any communication or publication, whatever the form or medium (including the Internet), concerning the state of progress with the *project* or concerning the *knowledge* generated:
  - shall mention the relevant specific programme and the support provided by the Community,
  - and
  - shall, where it is made by the *contractor*, specify that the information provided is the sole responsibility of the author and does not reflect the Community's opinion, and that the Community is not responsible for any use that might be made of data appearing in this communication or publication.

Where the utilisation of the European emblem is envisaged, it shall require prior approval by the Commission. Standards, in particular with regard to graphics, in force within the Commission must be complied with.

3. Without prejudice to the provisions regarding the protection and/or use of *knowledge*, and confidentiality, *the contractor* must inform the Commission and the standardisation bodies without delay of *knowledge* resulting from the *project* which may contribute to the preparation of European or, where appropriate, international standards, or to an industrial consensus on technical issues. To this end, he shall communicate appropriate data on such *knowledge* to the Commission and to the standardisation bodies during the entire duration of the contract and the two years following the *contract completion date*.

The provisions of this contract shall be without prejudice to the rules applicable, within the standardisation bodies, to data transmitted to them.

**Article 12.III.2 - Confidentiality**

1. Without prejudice to Articles 10.III.2 and 11.III.2 of this annex and any other obligation contained in this contract, the *contracting parties* shall be required to keep confidential any data, *knowledge*, documents and *pre-existing know-how*

communicated to them on a confidential basis or the disclosure of which may be prejudicial to one of them.

This obligation shall no longer apply:

- where the content of such data, *knowledge*, documents and *pre-existing know-how* becomes publicly available through work or actions lawfully performed outside this contract and not based on activities under it,
  - where such data, *knowledge*, documents and *pre-existing know-how* have been communicated without any confidentiality restrictions or where the disclosing party subsequently waives their confidentiality.
2. Where this contract provides for the communication of any data, *knowledge*, *pre-existing know-how* or document referred to in paragraph (1) of this article, the *contracting parties* shall first satisfy themselves that the recipient will keep it confidential and use it only for the purpose for which it is communicated.

## PART C : REIMBURSEMENT OF COSTS

### Article 13 - *Eligible costs* - general principles

1. *Eligible costs* are the costs defined in Articles 14 and 15 of this annex. They shall fulfil the following conditions:
  - be necessary for the *project*,
  - be incurred during the *duration of the project*,
  - be determined in accordance with the accounting principle based on historic costs and the usual internal rules of the *contractor*, provided that they are regarded as being acceptable by the Commission,
  - be recorded in the accounts no later than the *contract completion date* or in the tax documents,and
  - exclude any profit margin.

Without prejudice to the provisions of subparagraph (1),

- the costs for drawing up the final report shall be eligible when incurred by the *contractor* within a maximum period of two months as of the end of the *duration of the project*,
  - the durable equipment may have been purchased or leased before the *project commencement date*, within the limits specified in Article 14(2) subparagraph 5.
2. Non-eligible costs are in particular the following:
    - costs related to return on capital employed,
    - provisions for possible future losses or charges
    - interest owed,
    - provisions for doubtful debts,
    - resources made available to the *contractor* free of charge,
    - value of contributions in kind,
    - unnecessary or ill-considered expenses,
    - marketing, sales and distribution costs for products and services,
    - indirect taxes and duties, including VAT,
    - entertainment or hospitality expenses, except such reasonable expenses accepted as wholly and exclusively necessary for carrying out the work under the contract,
    - any cost incurred or reimbursed, in particular in respect of another Community, international or national project, subject to the provisions of Article 14(2) subparagraph 5, second indent.
  3. A cost shall only be charged to one of the eligible cost categories set out in Articles 14 and 15 of this annex.

4. The *contractor* shall be authorised to transfer the budget provided for in the table of the indicative breakdown of estimated eligible costs between cost categories, provided that:

- he informs the Commission of such transfer by confirming in writing that the scope of the *project* and the conditions of participation referred to in Articles 3 to 12 of the *Decision* are not fundamentally altered,

and

- the amounts successively transferred do not exceed 20% of the amount allocated in the table of the indicative breakdown of estimated eligible costs.

Any other properly substantiated transfer shall require prior approval by the Commission.

The Commission's approval shall be deemed to have been given in the absence of observations within one month of receipt of the request made by the *contractor*.

The budget for the costs for the protection of *knowledge* may not be the subject of a transfer to other categories of eligible costs.

#### **Article 14 - Direct costs**

##### 1. Personnel

With regard to personnel costs,

- a) Only the costs of the actual hours worked by the persons directly carrying out the scientific and technical work under the *project* may be charged to the contract.

In compliance with Article 8(3) of this Annex, such persons must:

- be directly employed by the *contractor* in accordance with his national legislation,
- be under the sole technical supervision of the latter,

and

- be remunerated in accordance with the normal practices of the *contractor*, provided that these are regarded as being acceptable by the Commission.

All the working time charged to the contract must be recorded within a period not exceeding two months from the end of the *duration of the project* and be certified at least once a month by the person in charge of the work designated by the *contractor* in accordance with Article 2(1) of this annex or by the duly authorised financial officer of the *contractor*.

b) Personnel costs shall comprise:

- the actual costs (gross remuneration and related charges),
- average employment costs, where these correspond to the normal practices of the *contractor*, provided that such costs do not differ significantly from the actual costs and that such practices are regarded as being acceptable by the Commission.

## 2. Durable equipment

Costs relating to the purchase or leasing of durable equipment shall be charged to the contract pursuant to this paragraph.

Hire costs shall be charged to the contract pursuant to paragraph 3 of this article.

The eligible costs for leased durable equipment shall not exceed the costs that would have been incurred in case of purchase of equipment, taking account of the formula below.

The costs to be charged to the contract shall be calculated according to the following formula:

$$A/B \times C \times D$$

A = the period in months during which the durable equipment is used for the *project* after invoicing,

B = the depreciation period for the durable equipment: 36 months for computer equipment costing less than 25 000 EUR or 60 months for other equipment,

C = the actual cost of the durable equipment,

D = the percentage of usage of the durable equipment for the *project*.

The durable equipment may have been purchased or leased:

- within the six months preceding the *project commencement date*,
- for a previous contract concluded with the Community, provided that the depreciation period has not been exceeded. Only the costs relating to the unexpired depreciation period may be charged.

## 3. Subcontracting

With the exception of costs charged to the contract pursuant to paragraph (1) of this article, the actual costs of *subcontracts* may be charged to the contract if:

- they are incurred in compliance with the conditions set out in Article 5 of this annex,

- the *subcontracts* are awarded and concluded in accordance with the usual procedures of the *contractor*,
- they are in accordance with market prices

and

- the copies, certified by the *contractor*, of relevant invoices are attached to the corresponding cost statements.

#### 4. Travel and subsistence

Actual travel and related subsistence costs for personnel working on the *project*, in accordance with paragraph (1) of this article may be charged to the contract.

The prior agreement of the Commission shall be required for any destination outside the territory of the Member States, the *Associated states* or a *third country* where a *contractor* is established, unless such a destination is provided for in Annex I.

The Commission's approval shall be deemed to have been given in the absence of observations within one month of receipt of the request made by the *contractor*.

Travel and subsistence costs shall be established on the basis of the usual rules of the *contractor*.

#### 5. Consumables

The actual costs relating to consumables, including particularly software licences, that are specifically acquired for the *project* and whose purpose so justifies may be charged to the contract.

#### 6. Computing

Computing costs, including the costs resulting from the use of computer services and media at the disposal of *the contractor*, may be charged to the contract. They must be substantiated in accordance with the rules applicable to the *contractor*.

#### 7. Protection of *knowledge*

The costs of the protection of *knowledge* generated in the framework of the *project* shall comprise the actual costs necessary for adequate and effective protection for such *knowledge*, taking into account the *interests of the Community*. They shall be eligible only insofar as the Commission has given its prior written approval to the *contractor* and competition rules, in particular those concerning the Community framework for State aid to research and development, are complied with.

The Commission's approval shall be deemed to have been given in the absence of observations within one month of receipt of the request made by the *contractor*.

They comprise :

- the costs of documentary research preliminary to the filing of an application for the granting of an industrial property right
- the fees paid to relevant authorities that are necessary with a view to the granting of an industrial property right or its territorial extension, provided that prior documentary research, as referred to in the first indent, has been carried out

and

- the fees paid to relevant authorities to extend the duration of the industrial property right.

Fees paid to advisers with a view to the protection of such *knowledge* shall be reimbursable provided that an application for the granting of an industrial property right has been subsequently filed. Personnel costs incurred in this connection shall be reimbursable, provided that :

- (i) the conditions of paragraphs 1(a) and (b) of this article shall apply *mutatis mutandis*,

and

- (ii) the time actually worked on the *project* shall be recorded and certified in accordance with paragraph (1)(a), third sentence of this article.

The Community's financial contribution in respect of subparagraph 3 of this paragraph may not exceed EUR 4 000 per industrial property right.

The costs of protection of such *knowledge* shall exclude, for instance:

- translation costs ;
- the costs of creating and marketing a product or process and the costs of creating and providing a service.

#### 8. Other specific costs

Other specific actual costs shall not come into any of the categories of eligible costs indicated in paragraphs (1) to (7) of this article and in Article 15 of this annex. They may include, in particular, the costs of prototypes or equipment fabricated, the costs of using large testing equipments and simulators, or the direct costs incurred in the setting-up of financial guarantees requested by the Commission.

They shall only be eligible subject to prior written approval of the Commission unless they are already provided for in Annex I to this contract.

The Commission's approval shall be deemed to have been given in the absence of observations within one month of receipt of the request made by the *contractor*.

### **Article 15 - Indirect costs**

A maximum lump sum of [...%]<sup>4</sup> of the eligible personnel costs referred to in Article 14(1)(b) of this annex may be charged to this contract as overheads relating to the carrying out of the work specified in the *project*.

### **Article 16 - Justification of costs**

Eligible costs shall be reimbursed where they are justified by the *contractor*.

To this end, the *contractor* shall maintain, on a regular basis and in accordance with the normal accounting conventions of the State in which he is established, the accounts for the *project* and appropriate documentation to support and justify in particular the costs and time reported in his cost statements.

This documentation must be precise, complete and effective.

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<sup>4</sup> To be set according to the type of action; the percentage must in no event exceed 80%.

## **PART D : AUDITING**

### **Article 17 - Financial audit**

1. The Commission, or any representative authorised by it, may initiate an audit at any time during the contract and up to five years after each payment of the Community contribution, as referred to in Article 3(1) subparagraph (1) of this annex.

The audit procedure shall be deemed as initiated on the date of receipt of the relevant registered letter with acknowledgment of receipt sent by the Commission.

It shall be carried out on a confidential basis.

2. The Commission or any authorised representative may have access, at any reasonable time, in particular to the personnel of the *contractor* connected with the *project*, the documentation referred to in Article 16 of this annex, computer records and equipment that it considers relevant. In this connection, it may request that data be handed over to it in an appropriate form in order, for instance, to ascertain the eligibility of the costs.

The Commission shall take appropriate steps to ensure that its authorised representatives treat confidentially the data to which they have access or which have been provided to them.

3. On the basis of the findings made during the financial audit, a provisional report shall be drawn up. It shall be sent to the *contractor*, who may make observations thereon within one month of receiving it.

The final report shall be sent to the *contractor*. The latter may communicate his observations to the Commission within a month of receiving it. The Commission may decide not to take into account the observations conveyed after the deadline.

On the basis of the conclusions of the audit, the Commission shall take all appropriate measures which it considers necessary, including the issuing of a recovery order regarding all or part of the payments made by it.

4. The Court of Auditors may verify the use made of the Community's financial contribution in the framework of this contract, on the basis of its own rules.

### **Article 18 - Technical verification of the *project***

1. The Commission, or any representative authorised by it, may initiate a technical verification of the *project* until the *contract completion date* in order to verify that the *project* is being or has been carried out in accordance with the conditions indicated by the *contractor*.

The verification procedure shall be deemed as initiated on the date of receipt of the relevant registered letter with acknowledgment of receipt sent by the Commission.

It shall be carried out on a confidential basis.

2. The Commission or any authorised representative may have access to the locations and premises where the work is being carried out, and to any document concerning the work, and may request the submission of documents under identical conditions as those set out in Article 17(2) of this annex.

Prior to the carrying out of the technical verification, the Commission shall disclose to the *contractor* the identity of the authorised representatives who are intended to perform the verification. It shall take account of any objection on the part of *the contractor* based on *legitimate interests*.

3. The *contractor* shall provide appropriate assistance to the Commission or its authorised representatives.
4. A report on the technical verification of the *project* shall be sent to the *contractor*. The latter may communicate his observations to the Commission within a month of receiving it. The Commission may decide not to take into account the observations conveyed after the deadline.

**Part E-1**

12-1999-01006-00-13 -EN-TRA-00 (FR)

**BRIEF SUMMARY OF ELIGIBLE COSTS (euro/national currency)**

for the period from \_\_\_\_\_ to \_\_\_\_\_ (period covered by report No \_\_\_)

Title of *project* :

Contract N°:

Name of *contractor*

Currency (euro/national currency) of the account <sup>1</sup>: Exchange/conversion rate used for conversion into euro <sup>1</sup>: \_\_\_\_\_

Contact person for this cost statement <sup>2</sup> :		Telephone:	
E-mail address :		Fax:	
Categories of eligible costs	Amount for the period <sup>3</sup>		
	Euro <sup>1</sup>	National currency <sup>1</sup>	
<b>Direct costs</b>			
1. Personnel . . . . .			
2. Durable equipment . . . . .			
3. Subcontracting . . . . .			
4. Travel and subsistence . . . . .			
5. Consumables . . . . .			
6. Computing . . . . .			
7. Protection of <i>knowledge</i> . . . . .			
8. Other specific costs . . . . .			
Sub-total			
<b>Indirect costs</b>			
9. Overheads . . . . .			
<b>Adjustments</b>			
10. Adjustments to previous costs <sup>4</sup>			
<b>Total</b>			
% <sup>5</sup> Community financial contribution : _____			

**Statement by the *contractor* <sup>6</sup>**

We certify that

- the above costs correspond to the resources employed for the work under this contract and that those resources were necessary for the performance of the work,
- the costs were incurred and fall within the definition of eligible costs,
- where necessary, authorisations have been obtained from the Commission, and
- all the documents supporting the eligible costs reported above, including the time records referred to in Article 14(1)(a)(3) of Annex II to the contract, are available for the purposes of audit by the Commission and its authorised representatives or the Court of Auditors and reflect the costs actually incurred.

We certify that any necessary adjustments, for any reason, to previous cost statements have been incorporated in this statement.<sup>4</sup>

Date:

Date:

Name of the person in charge of the work:

Name of financial officer:

Signature of the person in charge of the work:

Signature of financial officer:

1. The cost statement must be drawn up in euro and in the currency used in the *contractor's* accounts. The exchange rate must correspond to that indicated in Article 4(2)(a) of Annex II to this contract except in the case of special conditions. See the site [europa.eu.int/comm/dg19/inforeuro/fr/index.htm](http://europa.eu.int/comm/dg19/inforeuro/fr/index.htm).
2. One of the persons whose signature must appear on this form.
3. Net amounts only. Do not include indirect taxes and duties or customs duties. Further details are required for some of the categories on the following pages.
4. Not applicable for the first cost statement. Any necessary adjustment, for example to reflect actual costs rather than budgeted costs, must be made in subsequent statements. All details and reasons for any adjustment must be provided.
5. Insert the percentage Community financial contribution. See Article 3(2) of this contract.
6. The person in charge of the work (see Article 2(2)(a) of Annex II to this contract) and the financial officer of the *contractor* must sign the statement.

**Cost statement : details by category (euro/national currency)**

for the period from \_\_\_\_\_ to \_\_\_\_\_ (period covered by Report No\_\_)

Cost basis<sup>1</sup>: \_\_\_\_\_

Title of *project*:

Contract No:

Name of *contractor*:

Currency (euro/national currency) of the account:

**PERSONNEL AND OVERHEADS**

	Name <sup>2</sup>	Title (Mr/Mrs)	Category <sup>3</sup>	Status <sup>4</sup> (P / T / [I])	Employment <sup>5</sup> (FT / PT)	Number	Hourly		Personnel
						of man-hours <sup>6</sup>	[wage] rate <sup>7</sup>		amount
						A	B	Col. A x B	
<b>Total</b>									

**TRAVEL AND SUBSISTENCE**

	Name <sup>3</sup>	Destination (city, country)	Reason for journey	Amount <sup>8</sup>
<b>Total</b>				

**DURABLE EQUIPMENT<sup>9</sup>**

	Description	Arrangement (P / L) <sup>10</sup>	Cost/value <sup>11</sup>	Date of invoice	Depreciation 36/60 months	% Allocation to <i>project</i> <sup>12</sup>	Amount <sup>8</sup>
<b>Total</b>							

**SUBCONTRACTING<sup>13</sup>**

Subcontractors	Description	Amount <sup>8</sup>
<b>Total</b>		

**OTHER SPECIFIC COSTS<sup>14</sup>**

	Description and name of supplier where applicable	Amount <sup>8</sup>
<b>Total</b>		

1. Insert as appropriate : FC (Full costs), FF (Full costs-Flat-rate overheads).
2. Full identity of persons working on the *project*, the costs of which are reported.
3. Clearly identifiable (e.g. engineer, technician, administrator, administrative personnel, cost centre, department, etc.) [in the personnel records of the *contractor*].
4. Insert "P" for permanent employees, "T" for temporary employees and "I" for in-house consultants [clearly identifiable in the personnel records of the *contractor*].
5. Indicate the person's type of employment by inserting "FT" for full time and "PT" for part-time [clearly identifiable in the personnel records of the *contractor*].
6. The time reported must be reflected in the records of the *contractor* [and in the personnel records].
7. The wage rate comprises the elements specified in Article 14(1) of Annex II of this contract. It must correspond to the units appearing in column A.
8. Net amounts only. Do not include indirect taxes and duties or customs duties.
9. For the calculation of eligible costs, see Article 14(2) of Annex II to this contract, except in the case of special conditions.
10. For purchased durable equipment, insert "P", for leased durable equipment insert "L". In the case of leasing the cost must not exceed the costs of purchasing the same article (depreciated value) - see the fourth subparagraph of Article 14(2)(4) of Annex II to this contract.
11. Net amounts (excluding indirect duties and taxes and customs duties) for purchased durable equipment. For leased equipment insert the value of the equipment.
12. Percentage usage of durable equipment for the *project*.
13. Attach a certified copy of invoices containing a reference to the *subcontract* and details of the service or supply concerned, in order to certify the reported costs.
14. See Article 14(8) of Annex II to this contract. These costs require prior written approval by the Commission unless they are provided for in Annex I.