

# **Guide to Financial Issues relating to Indirect Actions of the Sixth Framework Programmes**



VERSION – APRIL 2004

## EXECUTIVE SUMMARY

### 1 - First Principles

- The Financial Regulation (FR) of the Communities<sup>1</sup>, and the Rules for participation and dissemination of the results (RP) of the Sixth Framework Programme (FP6)<sup>2</sup>, establish the basic principles for the **Community financial contribution** to indirect actions in FP6. This contribution can be made either :
  - by means of a call for tenders (public procurement), **or**<sup>3, 4</sup>
  - more usually, by means of a call for proposals (grant).<sup>5, 6</sup>
- In addition to the two different procedures (call for tenders vs. call for proposals) there are differences relating to the amount and nature of the financial contribution. Whereas public procurement consists of the payment of a market price for goods or services rendered, grants are limited to a contribution to certain costs (or in special cases a lump sum payment) incurred by the beneficiary. Therefore, public procurement permits a profit whereas grants forbid any profit and may cover only a position of the total costs.
- Usually, the Community financial contribution to indirect actions (research and development projects) under FP6 will be by means of grants (public procurement is used only in the case of purchase of goods or services by the Commission for its use and this is limited to certain **specific support actions** (the instrument known as an SSA)<sup>7</sup>). All other instruments will be financed by means of a grant (other specific support actions, **integrated projects, networks of excellence, specific targeted research or innovation projects, coordination actions, specific actions for SMEs and integrated infrastructure initiatives**). The Marie Curie actions for human resources and mobility are also funded primarily by grants.

<sup>1</sup> Regulation (EC, EURATOM) n°1605/2002 of the Council of 25 June 2002 regarding the Financial Regulation applicable to the general budget of the European Communities – OJ L248 of 16.9.2002, pages 1 to 48.

<sup>2</sup> Regulation of European Parliament and of the Council relating to the rules for participation of enterprises, research centres and universities and rules of dissemination of the results of research for the implementation of the sixth framework programme of the European Community (2002-2006) – adopted by Council on 5.11.2002 - OJ L355 of 30.12.2002, pages 23 to 234.

<sup>3</sup> Title V, Chapter 1, Section 1, Article 88, Paragraph 1 of Financial Regulation

**“ Public contracts are contracts for pecuniary interest concluded in writing by a contracting authority within the meaning of Articles 104 and 167, in order to obtain, against payment of a price paid in whole or in part from the budget, the supply of movable or immovable assets, the execution of works or the provision of services.**

**These contracts comprise:**

**(a) contracts for the purchase or rental of a building;**

**(b) supply contracts;**

**(c) works contracts;**

**(d) service contracts.”**

<sup>4</sup> Articles 9.2b) and 14.1b) of the Rules for Participation.

<sup>5</sup> Title VI, Chapter 1, Section 1, Article 108, Paragraph 1 of Regulation n°1605/2002 of the Council of 25 June 2002

**« Grants are direct financial contributions, by way of donation, from the budget in order to finance:**

**(a) either an action intended to help achieve an objective forming part of a European Union policy;**

**(b) or the functioning of a body which pursues an aim of general European interest or has an objective forming part of a European Union policy.**

**They shall be covered by a written agreement. »**

<sup>6</sup> Article 14.1 of the Rules for Participation.

<sup>7</sup> Articles 9.2b) and 14.1 of the Rules for Participation.

## **2 - Nature of the grant**

- The Rules for Participation allow the Community contribution to a grant to be made in one of two forms:
  - **Lump sum payments**<sup>8</sup>
  - **Reimbursement of eligible costs**<sup>9</sup> (« Grant to Budget » and « Grant to Integration »)
- The use of lump sums or fixed rate amounts is limited by the Financial Regulation to actions such as prizes, training actions, unitary scale costs (where rates are fixed according to certain terms and conditions across the board for all users), and actions where the EC contribution is less than € 5,000. Therefore, lump sum grants will only be used in FP6 for certain specific support actions and certain human resources and mobility actions. *(Certain kinds of reimbursements of eligible costs can be by means of fixed rates with the agreement of the participant eg. fixed rate reimbursement for overheads in certain cost models or certain actions)*
- The vast majority of indirect actions under the FP6 will be financed by means of grants that reimburse of eligible costs.

## **3 - Principles applicable to grants that reimburse eligible costs**

- The Community financial contribution to grants which reimburse eligible costs must conform to the principles and rules established by the Financial Regulation<sup>10</sup>, its Implementing Rules<sup>11</sup>, the Framework Programme<sup>12</sup> and its Rules for Participation<sup>13</sup> including:
  - The principle of non-profit
  - The principle of co-financing
  - The principle of additionality

These principles must be followed at the level of the project itself.

## **4 - The Community financial contribution**

The amount of the Community financial contribution is determined by a number of factors including the instrument, the activity, the cost model, the amount of any receipts to the project and the Community framework state aids in the area of research and development.

### **a. Cost Model Applicability**

<sup>8</sup> Article 14.1 b) of the Rules for Participation.

<sup>9</sup> Articles 14.1 a) and 14.1 c) of the Rules for Participation.

<sup>10</sup> Title VI – Chapter 2 « Award principles » – Article 109 – paragraphs 1 and 2 of Financial Regulation .

Title VI – Chapter 2 « Award principles » – Article 113 – Financial Regulation .

<sup>11</sup> Article 165 « Non-profit Rule » - paragraph 1 of the Regulation of the Commission regarding the implementing rules of Regulation n°1605/2002 – SEC (2002) 835 final of 24.7.2002.

<sup>12</sup> Annex III – Section 2 – paragraph 5 of the Decision of the European Parliament and Council n°1513/2002/EC of 27 June 2002  
Annex III – Section 2 – table – footnote page (1) of the Decision of the European Parliament and Council n°1513/2002/EC of 27 June 2002

<sup>13</sup> Article 14 « Community financial contribution » – Paragraph 2 (d) of the Rules for Participation.

- The cost models are applicable to all instruments in the Sixth Framework Programme where the Community contribution is a grant for integration (Networks of Excellence) or a grant to the budget (Integrated Projects, Specific Targeted Projects, Specific Actions for SMEs, Integrated Infrastructure Initiatives\*, Coordination Actions, and certain Specific Support Actions). They do not apply to those instruments where the Community financial contribution is a lump sum grant (certain Specific Support Actions and certain Actions promoting human resources and mobility).
- For some actions promoting human resources and mobility a specialised version of the cost model is applied.

## b. Cost Models

There are three cost models in typical research actions:

- **Full Cost with actual indirect costs (FC)**  
- all eligible direct and indirect costs are charged by the contractors.
- **Full Cost with indirect flat rate costs (FCF)**  
- all eligible direct costs and a flat rate for indirect costs are charged. The flat rate is 20% of all direct eligible costs minus the cost of sub-contracts.
- **Additional Costs with indirect flat rate costs (AC)**  
- all eligible direct additional costs and a flat rate for indirect costs are charged. The flat rate is 20% of all direct additional costs minus the cost of sub-contracts.

(\***User fee**: a user fee cost model may be used for access to infrastructure activities either in the integrated infrastructure initiatives or in the specific support actions for transnational access)

- **Direct costs** are eligible costs that are associated directly to the project, and are determined by the contractor in accordance with its usual accounting practices;
- **Direct additional costs**, are eligible costs additional to the normal recurring costs of the contractor that are associated directly to the project and are not covered by any other sources of funding.

Direct additional costs of personnel can include:

- personnel with a temporary contract for working under the Community contract concerned ;
  - personnel with a temporary contract with a view to completing a doctorate ;
  - personnel whose employment contract depends wholly or in part on additional external financing. In this case, costs charged to the project must exclude all costs covered by normal recurring financing.
- **Indirect costs** are, for those working on the full cost model, all eligible costs determined by the contractor, in accordance with its usual accounting practices, which are not directly attributable to the project but are incurred in relation to the direct costs of the project. For those contractors using either of the flat rate models (FCF, AC) a flat rate is applied to the eligible direct costs and is deemed to cover the indirect costs.

## c. Access to the Cost Models

Access to a cost model depends on the type of legal entity concerned:

- All legal entities can use the FC model with the exception of physical persons;
- Physical persons use the AC model; (but see part 2.4.7 for further details)
- Non-commercial or non-profit organisations established either under public law or private law and international organisations may choose one of the AC, FCF or FC models. However, only those non-commercial or non-profit organisations established either under public law or private law and international organisations which do not have an accounting system that allows the share of their direct and indirect costs relating to the project to be distinguished may opt for the AC model.
- SMEs have the choice between the FC and FCF model.

#### **d. Use of a Cost Model**

Each contractor must apply the same cost reporting model in all contracts established under the Sixth Framework Programme. However:

- any legal entity which is eligible to opt for the AC model in a first contract can change to the FCF or the FC model in a later contract. If it does so, it must then use the new cost reporting model in subsequent contracts;
- any legal entity which is eligible to opt for the FCF model in a first contract can change to the FC model in a later contract. If it does so, it must then use the new cost reporting model in subsequent contracts.

#### **e. Receipts of the Project**

Three kinds of receipts must be taken into consideration:

- Financial transfers or their equivalent to the contractor from third parties;
- Contributions in kind from third parties;
- Income generated by the project.

In the first two cases (financial transfers or contributions in kind), these endowments are considered as receipts of the project if the third party has provided them specifically to be used in the project. However, if the use of these contributions is at the discretion of the contractor they may be considered as eligible costs to the project but are not be considered to be receipts.

Where contributions from third parties are used by the contractor for the project, the latter is required to inform the third party of this use, in accordance with the national legislation or practice in force.

In the case of income generated by the project itself, any income generated by the project itself, including the sale of assets bought for the project (limited to the initial cost of purchase) are considered as income to the project (eg. admission fee to a conference carried out by the consortium; sale of the proceedings of such a conference; sale of equipment bought for the project etc.)

The table below indicates the maximum reimbursement rates per instrument, per activity and per cost model for all indirect actions.

Maximum reimbursement rates of eligible costs	Research and technological development or innovation activities	Demonstration activities	Training activities	Management of the consortium activities	Other specific activities (*)
Network of excellence				100% (up to 7% of the contribution) (AC : eligible direct costs)	100%
Integrated project	FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%	100%	100% (up to 7% of the contribution) (AC : eligible direct costs)	
Specific targeted research or innovation project	FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%		100% (up to 7% of the contribution) (AC : eligible direct costs)	
Specific research project for SMEs	FC/FCF : 50% AC : 100%		100% (for collective research only)	100% (up to 7% of the contribution) (AC : eligible direct costs)	
Integrated infrastructures initiative	FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%		100% (up to 7% of the contribution) (AC : eligible direct costs)	100%
Coordination action			100% (FC indirect costs : flat rate(**))	100% (up to 7% of the contribution) (AC : eligible direct costs) (FC indirect costs : flat rate(**))	100% (FC indirect costs : flat rate(**))
Specific support action				100% (up to 7% of the contribution) (AC : eligible direct costs) (FC indirect costs : flat rate(**))	100% (FC indirect costs : flat rate(**))

(\*) : Other specific activities means:

- for Network of Excellence : Joint Programme of Activities, except management of the consortium activities.
- for Integrated infrastructures initiative: any "specific activity" covered by Annex I, including transnational access to infrastructures
- for Coordination Action: Coordination activities, except management of the consortium activities
- for Specific support action: any "specific activity" covered by Annex I, including transnational access to infrastructures

(\*\*) : Flat rate for FC indirect costs : 20% of all their eligible direct costs minus the eligible direct costs of sub-contracts.

## Audit certificates

An **audit certificate** is required from each contractor at some point during the life of the project **to certify the costs** claimed. It is provided by the contractor's own external auditor (or in the case of public body it may be provided by a competent public officer). The costs are reimbursed via the management activity of the project (100% funding).

For integrated projects and networks of excellence, audit certificates are provided each year by each contractor.

The submission of an audit certificate does not waive the right of the Commission to carry out its own audits, which may be launched at any time and up to 5 five years after the end of the project.

## 5 - Subcontracts

Contractors are expected to have the resources necessary to carry out the work required by the project. In certain circumstances, though, it is more economic or efficient to subcontract some aspects of the work. When work is to be subcontracted it must be identified in the technical annex to the contract (Annex I). Subcontracts must be awarded on transparent grounds to the best bid offered taking into consideration price and quality and following any national legislation in force. This means that, depending on the size and nature of the subcontract, the procedure may take different forms ranging from the simplest to more complex (e.g. negotiated, restricted; open; competition). In a very simplified procedure, usually three different offers have to be

received and evaluated against common established criteria, to ensure that each of them is treated fairly and equitably. Any subcontract that is not identified in the technical annex to the contract must be limited to minor services and supplies, to which the same rules apply.

## **6 - Collective responsibility**

All contracts with more than one contractor impose technical collective responsibility on the partners to carry out the work of the project.

Most contracts impose financial collective responsibility (all actions except SME specific actions, fellowships and certain specific support actions) upon the contractors to make good the breach of a contractor if the others are not willing to complete the project and respect their contractual obligations. If a contractor breaches the contract and the consortium does not make good this breach, the Commission may, as a last resort and after having explored with the consortium all other viable solutions, hold the other participants liable for the defaulting contractor. Public bodies are exempt from financial collective responsibility.

In cases of termination of the contract for breach of contractual obligations or irregularity, and where the contractor does not honour its obligation to reimburse any amount due to the Commission, the latter will impose the provisions of financial collective responsibility on the consortium. The consortium will be obliged to reimburse the amount due to the Commission. The financial collective responsibility does not apply to liquidated damages that may be imposed by the Commission to one or more contractors, neither does it apply to any obligation to reimburse funds as the result of an audit.

## **7 - Sanctions and recoveries**

Any amount unduly paid by the Commission to a contractor has to be reimbursed to the Commission on the terms and date specified by it. In addition, in certain circumstances overclaims may be penalised by means of the imposition of liquidated damages. This means that the amount overclaimed must be reimbursed to the Commission and, in addition, a penalty amounting to a percentage of the overclaim must also be paid. There are also penalties that can be imposed for grave breach of contractual obligations or irregularity.

Further, a contract can be terminated for reasons of irregularity or for violation of fundamental ethical principles.

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## INTRODUCTION: RATIONALE AND NATURE OF THE GUIDE

This **Guide to Financial Issues relating to indirect actions** of the Sixth Framework Programmes (**FP6 Financial Guide**) is intended to provide to the participants in FP6 projects, as well as to the Commission services, in a single and, as far as possible, complete document:

- information on the financial aspects of the main indirect actions of the Sixth Framework Programmes (**FP6**<sup>14 & 15</sup>). The indirect actions implemented by means of the provisions of Article 169 of the EU Treaty, RTD activities under the priority thematic area “Fusion Energy Research”<sup>16</sup>, Actions to promote human resources and mobility (Marie Curie actions)<sup>17</sup> and Experts<sup>18</sup> all have provisions specific to them. For these indirect actions, their specific provisions are included in annexes that may be added to or completed on a regular basis ;
- relevant references to the applicable legal framework;
- concrete examples, as well as suggestions for good financial practices to be applied when carrying out EC-funded RTD projects.

FP6 projects are governed by the principles established by the following legal framework<sup>19</sup>:

- the Sixth Framework Programme of the European Community (**FP6 – EC**) ;
- the Sixth Framework Programme of the European Atomic Energy Community (**FP6 – EURATOM**) ;
- the Sixth Framework Programmes Specific Programmes (**SP**<sup>20, 21 & 22</sup>) ;

<sup>14</sup> OJ L232, 29.08.2002, p. 1 – Decision N° 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the Sixth Framework Programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006). ([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_232/l\\_23220020829en00010033.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_232/l_23220020829en00010033.pdf))

<sup>15</sup> OJ L232, 29.08.2002, p. 34 – Council Decision N° 2002/668 of 3 June 2002 concerning the Sixth Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities, also contributing to the creation of the European Research Area (2002 to 2006). ([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_232/l\\_23220020829en00340042.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_232/l_23220020829en00340042.pdf))

<sup>16</sup> See Annex A (6.A) to these guidelines.

<sup>17</sup> See Annex B (6.B) to these guidelines.

<sup>18</sup> See Annex C (6.C) to these guidelines.

<sup>19</sup> Please note that since there are two framework programmes (European Community [EC] and European Atomic Energy Community [EURATOM]), where the provisions are identical in the basic acts (Framework Programme, Specific Programmes or rules for participation and Dissemination of Results) there is no mention of the relevant Community. However, where the provisions are different, the mention “EC” or “EURATOM” is added to clarify which act is concerned (e.g.: FP-EURATOM ; RP-EC ; ...).

<sup>20</sup> OJ L294, 29.10.2002, p. 1 – Council Decision of 30 September 2002 adopting a specific programme for research, technological development and demonstration: "Integrating and strengthening the European Research Area" (2002-2006). ([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_294/l\\_29420021029en00010043.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_294/l_29420021029en00010043.pdf))

<sup>21</sup> OJ L294, 29.08.2002, p. 44 – Council decision of 30 September 2002 adopting a specific programme for research, technological development and demonstration: "structuring the European Research Area" (2002-2006). ([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_294/l\\_29420021029en00440059.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_294/l_29420021029en00440059.pdf))

<sup>22</sup> OJ L294, 29.08.2002, p. 74 – Council Decision of 30 September 2002 adopting a specific programme (Euratom) for research and training on nuclear energy (2002-2006). ([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_294/l\\_29420021029en00740085.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_294/l_29420021029en00740085.pdf))

- the Sixth Framework Programmes rules for participation and dissemination of results (**RP**<sup>23 & 24</sup>);
- the Sixth Framework Programmes model contract and the annexes specific to particular instruments adopted by the Commission<sup>25</sup> (**FP6 model contract**);
- the Financial Regulation applicable to the general budget of the European Communities (**FR**<sup>26</sup>) and its Implementing Modalities (**IM**<sup>27</sup>).

FP6 indirect actions are characterised by the use of instruments that provide greater responsibility, autonomy and flexibility to the consortia in comparison with former Framework Programmes.

Within this new framework, this guide on financial issues should provide actors inside and outside the Commission with a tool that can be consulted at any point in the process of submission, evaluation, negotiation or implementation of FP6 projects to guide them in financial management issues.

Participants, although not legally bound by these guidelines, are invited to follow them when establishing their **budget for the indirect action**, during negotiation and when preparing **financial reports**.

The Commission services will follow these guidelines in - their dealings with the projects, as will any auditor appointed by the Commission.

To facilitate access to the legislative framework, Internet addresses (whenever available) of the legal documents and/or references are included with the extracts of the relevant texts provided in these guidelines. In addition, a set of Frequently Asked Questions (FAQ), particularly on financial issues, is available on the contract web site: [http://europa.eu.int/comm/research/fp6/working-groups/model-contract/index\\_en.html](http://europa.eu.int/comm/research/fp6/working-groups/model-contract/index_en.html)

DG Research has set up a special mailbox where questions can be sent about legal and financial issues concerning the implementation and management of FP6 that have not been addressed by this guide or the FAQ. The address of this mailbox is [RTD-A03-questions-juridiques@cec.eu.int](mailto:RTD-A03-questions-juridiques@cec.eu.int). Check both this document and the FAQ to see if your question is already answered there before sending a question to the mailbox.

<sup>23</sup> OJ L355, 30.12.2002, p. 23 – Regulation (EC) N° 2321/2002 of 16 December 2002 of the European Parliament and of the Council concerning the rules for the participation of undertakings, research centres and universities in, and for the dissemination of research results for, the implementation of the European Community Sixth Framework Programme (2002-2006).

([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_355/l\\_35520021230en00230034.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_355/l_35520021230en00230034.pdf))

<sup>24</sup> OJ L355, 30.12.2002, p. 35 – Council Regulation N° 2322/2002 (Euratom) of 5 November 2002 concerning the rules for the participation of undertakings, research centres and universities in the implementation of the sixth framework programme of the European Atomic Energy Community (2002 to 2006).

([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_355/l\\_35520021230en00350044.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_355/l_35520021230en00350044.pdf))

<sup>25</sup> Where the FP6 model contract is mentioned in these guidelines, it refers to the standard model contract for FP6 instruments adopted by the Commission on 17/03/2003, as amended on 23.10.03, except for actions to promote human resources and mobility. For the latter, there is a specific model contract and associated annexes.

[http://europa.eu.int/comm/research/fp6/working-groups/model-contract/index\\_en.html](http://europa.eu.int/comm/research/fp6/working-groups/model-contract/index_en.html)

<sup>26</sup> OJ L248, 16.09.2002, p. 1 – Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities. Entry into force: 01.01.2003.

([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_248/l\\_24820020916en00010048.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_248/l_24820020916en00010048.pdf))

<sup>27</sup> OJ L357, 31.12.2002, p. 1 – Commission Regulation (EC, Euratom) N° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) N° 1605/ 2002 on the Financial Regulation applicable to the general budget of the European Communities. Entry into force: 01.01.2003.

([http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_357/l\\_35720021231en00010071.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_357/l_35720021231en00010071.pdf))

## **1- GENERAL FINANCIAL PRINCIPLES**

As a general rule, except where the basic act(s)<sup>28</sup> stipulate(s) differently, the Community financial contribution to an FP6 indirect action must follow the principles established by the FR and its IM.

Therefore, the **Community financial contribution to indirect actions in the FP6 can take one of the two following forms:**

- **Public procurement**, by means of a call for tenders
- **Grant (or Subvention)**, generally by means of a call for proposals

### **1.1- FORMS OF THE COMMUNITY FINANCIAL CONTRIBUTION**

#### **1.1.1- Public procurement**

Title V (“Procurement”) of both the FR<sup>29</sup> and IM<sup>30</sup> establish the legal framework for public procurement by the Commission.

Public procurement is clearly defined by the first paragraph of article 88 of the FR:

*“Public [procurement] contracts are contracts for pecuniary interest concluded in writing by a contracting authority within the meaning of Articles 104 and 167, in order to obtain, against payment of a price paid in whole or in part from the budget, the supply of movable or immovable assets, the execution of works or the provision of services [to the Commission]. These contracts comprise:*

*(a) contracts for the purchase or rental of a building;*

*(b) supply contracts;*

*(c) works contracts;*

*(d) service contracts.”*

#### **1.1.2- Grant (or Subvention)**

Title VI (“Grants”) of both the FR<sup>31</sup> and IM<sup>32</sup> establish the legal framework for grants. Grants are defined by the first paragraph of Article 108 of the FR:

*“Grants are direct financial contributions, by way of donation, from the budget in order to finance:*

*(a) either an action intended to help achieve an objective forming part of a European Union policy;*

*(b) or the functioning of a body which pursues an aim of general European interest or has an objective forming part of a European Union policy.*

*They shall be covered by a written agreement.”*

<sup>28</sup> As far as FP6 is concerned, the basic acts are the FP6s, the SPs and the RPs.

<sup>29</sup> FR: Part one “Common provisions” – Title V “Procurement” – Articles 88 to 107.

<sup>30</sup> IM: Part one “Common provisions” – Title V “Procurement” – Articles 116 to 159.

<sup>31</sup> FR: Part one “Common provisions” – Title VI “Grants” – Articles 108 to 120.

<sup>32</sup> IM: Part one “Common provisions” – Title VI “Grants” – Articles 160 to 184.

### 1.1.3- Main differences between Public Procurement and Grant

The following table shows the main differences between public procurement and a grant<sup>33</sup>.

Public Procurement	Grant
<b>Subject</b>	
<ul style="list-style-type: none"> <li>▪ The proposed project entails the purchase of goods or services which the Commission needs for its own operation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The proposal entails the promotion and encouragement of an action recognised as useful by the Commission, but which falls primarily within the scope of the beneficiary's activities.</li> </ul>
<b>Regulatory Framework</b>	
<ul style="list-style-type: none"> <li>▪ FR (Articles 88 to 107);</li> <li>▪ IM (Articles 116 to 159).</li> <li>▪ Basic Acts (for FP6: FP6, SPs and RPs).</li> </ul>	<ul style="list-style-type: none"> <li>▪ FR (Articles 108 to 120).</li> <li>▪ IM (Articles 160 to 184).</li> <li>▪ Basic Acts (for FP6: FP6, SPs and RPs).</li> </ul>
<b>Financial contribution</b>	
<ul style="list-style-type: none"> <li>▪ Generally, 100% of a <b>price</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Contribution up to 100% of the <b>eligible costs</b>.</li> <li>▪ Rule of non-profit.</li> <li>▪ Rule of co-financing.</li> <li>Or, in certain specific cases:               <ul style="list-style-type: none"> <li>▪ <b>Flat-rate financing</b> (set amounts)</li> </ul> </li> </ul>
<b>Ownership of the outcomes/results</b>	
<ul style="list-style-type: none"> <li>▪ Since it is purchased and paid for by the Commission, the outcome/result <b>belongs to the Commission</b> in its entirety.</li> </ul>	<ul style="list-style-type: none"> <li>▪ In principle, except otherwise mentioned in the basic acts, the outcome/result <b>belongs to the contractors</b>; usually the contractor(s) generating the results.</li> </ul>
<b>Selection procedure</b>	
<ul style="list-style-type: none"> <li>▪ <b>Call for tender</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Call for proposals</b>, except otherwise mentioned in the basic acts.</li> </ul>

## 1.2- FORMS OF THE FP6 COMMUNITY FINANCIAL CONTRIBUTION

**In general**, the Community financial contribution to indirect actions under FP6 will be by means of a **grant** or subvention.

**Only in the case of purchases of goods or services** will the **public procurement** route be used and this is limited to some **Specific Support Actions**<sup>34 & 35</sup>.

**All other instruments** (other specific support actions [SSA]<sup>36</sup>, integrated projects [IP]<sup>37</sup>, networks of excellence [NoE]<sup>38</sup>, specific targeted research or innovation projects [STReP]<sup>39</sup>,

<sup>33</sup> This table is not exhaustive. For a complete overview see Titles V and VI of the FR and IM.

<sup>34</sup> RP – Article 9 (“Submission of proposals for indirect actions”) – paragraph 2 – indent (b):

“ 1. *Proposals for indirect actions shall be submitted under the terms of calls for proposals. These terms shall be set out in the work programmes. (...)*

2. *Paragraph 1 shall not apply to: (...)*

(b) *specific support actions consisting of a purchase or service governed by the terms applicable to public procurement procedures;*”

<sup>35</sup> RP – Article 14 (“Community financial contribution”) – paragraph 1 – indent (b):

“1. *In accordance with Annex III to the Sixth Framework Programme, and within the limits of the Community framework for State aid for research and development, the Community financial contribution may take the following forms: (...)*

(b) *For some actions to promote human resources and mobility and some specific support actions, except for the indirect actions covered by Article 9(2)(b), it may take the form of a lump-sum payment.*”

<sup>36</sup> For a complete overview of the purpose of an SSA, consult the relevant background document at the following internet address: See Negotiation guidance notes for coordinators of SSAs and the background note on instruments at <http://www.cordis.lu/fp6/find-doc.htm#negotiation>.

specific research projects for SMEs [Collective Research<sup>40</sup> and Cooperative Research<sup>41</sup>], integrated infrastructure initiatives [I<sup>3</sup>]<sup>42</sup>, coordination actions [CA]<sup>43</sup> and actions to promote and develop human resources and mobility [Marie Curie Actions]<sup>44</sup>) will be financed by means of a **grant** or subvention.

**When the Community contribution is provided by means of a grant, it can take one of the following forms:**

- **Flat rate financing (or lump sum)**<sup>45</sup> ;
- **Reimbursement of costs**<sup>46 & 47</sup> ;

### **1.2.1- Flat rate financing (or Lump sum grant)**

The use of lump sum grants or fixed-rate financing is limited to actions such as scholarships or prizes, training actions, the use of scale of unit costs (where rates are fixed according to certain terms and conditions across the board for all users), and actions where the EC contribution is less than € 5.000 (see Article 181 of IM).

**The use of lump sums is limited to some specific support actions (SSA) and some actions to promote human resources and mobility (Marie Curie Actions)** (see indent (b) of the first paragraph of Article 14 (“Community financial contribution”) of the RP):

<sup>37</sup> For a complete overview of the purpose of an IP, please consult the relevant background documents at the following internet address:

[http://europa.eu.int/comm/research/fp6/pdf/ip\\_provisions\\_120503final.pdf](http://europa.eu.int/comm/research/fp6/pdf/ip_provisions_120503final.pdf) or <http://www.cordis.lu/fp6/find-doc.htm#negotiation>

<sup>38</sup> For a complete overview of the purpose of an NoE, please consult the relevant background documents at the following internet address:

[http://europa.eu.int/comm/research/fp6/pdf/noe\\_120503final.pdf](http://europa.eu.int/comm/research/fp6/pdf/noe_120503final.pdf) or <http://www.cordis.lu/fp6/find-doc.htm#negotiation>

<sup>39</sup> For a complete overview of the purpose of a STReP, please consult the relevant backgrounds document at the following internet address:

[http://europa.eu.int/comm/research/fp6/pdf/strep\\_120503final.pdf](http://europa.eu.int/comm/research/fp6/pdf/strep_120503final.pdf) or <http://www.cordis.lu/fp6/find-doc.htm#negotiation>

<sup>40</sup> For a complete overview of the purpose of a Specific Collective Research Project for SMEs, please consult the relevant background documents at the following internet address: **<http://www.cordis.lu/fp6/find-doc.htm#negotiation>**

<sup>41</sup> For a complete overview of the purpose of a Specific Cooperative Research Project for SMEs, please consult the relevant background documents at the following internet address: **<http://www.cordis.lu/fp6/find-doc.htm#negotiation>**

<sup>42</sup> For a complete overview of the purpose of an I<sup>3</sup>, please consult the relevant background documents at the following internet address: **<http://www.cordis.lu/fp6/find-doc.htm#negotiation>**

<sup>43</sup> For a complete overview of the purpose of a CA, please consult the relevant background documents at the following internet address: **<http://www.cordis.lu/fp6/find-doc.htm#negotiation>**

<sup>44</sup> For a complete overview of the purpose of the Marie Curie Actions, please consult the relevant background documents at the following internet address:

<http://www.cordis.lu/fp6/mobility.htm>

<sup>45</sup> IM: Article 181 – first paragraph:

*“In addition to cases of scholarships and prizes, the basic act may authorise flat-rate financing for contributions of less than EUR 5 000 or the use of scales of unit costs. In order to ensure compliance with the principles of co-financing, no-profit and sound financial management, those flat-rate amounts and scales shall be reviewed at least every two years by the authorising officer responsible. The amounts shall be approved by the Commission.”*

<sup>46</sup> FR: Article 109- first and second paragraph:

*“1. The award of grants shall be subject to the principles of transparency and equal treatment. They may not be cumulative or awarded retrospectively and they must involve co-financing.  
2. The grant may not have the purpose or effect of producing a profit for the beneficiary.”*

<sup>47</sup> FR: Article 113 – first paragraph:

*“The grant may not finance the entire costs of the action, subject to Title IV of part two [External actions]. The grant may not finance the entire operating expenditure of the beneficiary body.”*

*1. In accordance with Annex III to the Sixth Framework Programme, and within the limits of the Community framework for State aid for research and development, the Community financial contribution may take the following forms:*

*(...)*

*(b) For some actions to promote human resources and mobility and some specific support actions, except for the indirect actions covered by Article 9(2)(b), it may take the form of a lump-sum payment.”*

**The vast majority of indirect actions under FP6 will be financed by means of grants that reimburse eligible costs.**

## **1.2.2- Reimbursement of costs**

### **1.2.2.1- General principles**

**When the Community contribution is provided by means of a grant consisting in the reimbursement of costs**, it must conform to the principles and rules established by the FR, its IM, FP6 and its RP, and especially fulfill the two following conditions:

- the principle of non-profit<sup>48 & 49</sup>
- the principle of co-financing<sup>50 & 51</sup>

**These principles must be followed at the level of the project itself.**

The application of these principles means that, as a general rule, **when the Community contribution is provided by means of a grant that reimburses of costs:**

- **it can not exceed 100% of the total costs of the indirect action** (non-profit);
- **it can never be equal to 100% of the total costs of the indirect action**<sup>52</sup> (co-financing).

<sup>48</sup> FR: Article 109 – second paragraph (see footnote 46).

<sup>49</sup> IM: Article 165 – first paragraph:

*“1. The grant may not have the purpose or effect of producing a profit for the beneficiary. Profit shall be defined as:*

*(a) a surplus of receipts over the costs of the action in question when the request is made for final payment of a grant for an action, subject to the second subparagraph;*

*(b) a surplus balance on the operating budget of a body in receipt of an operating grant.”*

<sup>50</sup> FR: Article 109 – first paragraph (see footnote 46).

<sup>51</sup> FP6-EC – Annex III (“INSTRUMENTS AND RULES FOR FINANCIAL PARTICIPATION BY THE COMMUNITY”) – Section 2 (“DETAILED RULES FOR FINANCIAL PARTICIPATION BY THE COMMUNITY”) – fifth paragraph: *“Financial participation by the Community will be granted in compliance with the principle of co-financing, with the exception of financing for studies, conferences and public tenders.”*

<sup>52</sup> Except for Coordination Actions (CA), as clearly established in the first footnote of the table of the Section 2 (“DETAILED RULES FOR FINANCIAL PARTICIPATION BY THE COMMUNITY”) of Annex III (“INSTRUMENTS AND RULES FOR FINANCIAL PARTICIPATION BY THE COMMUNITY”) of FP6 - EC:

However, **flat-rate financing or lump-sum mechanism can be used to cover the indirect costs of the participants** in certain cases (in accordance with the IM<sup>53</sup> and the second indent of Article 14 of the RP<sup>54</sup>).

**When the Community contribution is provided by means of a grant that reimburses costs** (as established in Annex III to FP6 - EC<sup>55</sup> and in the first paragraph of Article 14 of the RP), it can take two forms:

- a **Grant for Integration**
- a **Grant to the Budget**

### **1.2.2.2- Grant for Integration**

For Networks of Excellence the Community financial contribution is a fixed grant for integration to attain the planned lasting integration within the objectives of the joint programme of activities (JPA) (as established by indent (a) of the first paragraph of Article 14 of the RP):

*“1. In accordance with Annex III to the Sixth Framework Programme, and within the limits of the Community framework for State aid for research and development, the Community financial contribution may take the following forms:*

*(a) For networks of excellence, it shall take the form of a fixed grant for integration on the basis of the joint programme of activities. The amount of that grant shall be calculated taking into account the degree of integration, the number of researchers that all participants intend to integrate, the characteristics of the field of research concerned and the joint programme of activities. It shall be used to complement the resources deployed by the participants in order to carry out the joint programme of activities.*

*This grant shall be paid out on the basis of results, following the ongoing execution of the joint programme of activities, and on condition that its expenses, which are to be certified by an external auditor, or in the case of public bodies, a competent public officer, are greater than the grant itself.”*

Therefore, even though the Community financial contribution for a Network of Excellence is not calculated on the basis of a provisional budget of estimated

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*“(1) As a general principle, the Community financial contribution cannot cover 100 % of the expenditure of an indirect action with the exception of proposals covering a purchase price governed by the terms applicable to public procurement procedures or taking the form of a pre-defined lump sum pre-set by the Commission.*

*However, the Community financial contribution may bear up to 100 % of the expenditure of an indirect action if they complement those otherwise borne by the participants. Also, in the specific case of coordination actions, it covers up to 100 % of the budget necessary for the coordination of activities funded by the participants themselves.”*

<sup>53</sup> IM: Article 181 – second paragraph:

*“2. The grant agreement may authorise flat-rate cover:*

*(a) of the beneficiary's overheads up to a maximum of 7 % of total eligible costs for the action, save where the beneficiary is in receipt of an operating grant financed from the Community budget;*

*(b) of certain mission expenses on the basis of a per diem scale approved annually by the Commission.*

*The ceiling provided for in point (a) of the first subparagraph may be exceeded by reasoned decision of the Commission.”*

<sup>54</sup> RP: Article 14 – second paragraph – second indent:

*“By way of derogation from the actual cost principle and with the agreement of the participants, the contract may lay down average rates of Community financial participation by type of expenditure or pre-set lump sums, as well as a value by activity which shall approximate to the expenses envisaged.”*

<sup>55</sup> See the last column of the table of Section 2 of Annex III to FP6 - EC.

costs, payment of the grant is conditional upon the participants incurring costs that are greater than the amount of the grant itself.

In other words, for a Network of Excellence, the Community financial contribution could reimburse up to 100% of the eligible costs incurred by the participants, whatever the cost model they use, but the eligible costs must be greater than the maximum Community financial contribution established in the contract. The way in which the grant is distributed between the participants is determined by the provisions of their consortium agreement.

### **1.2.2.3- Grant to the Budget**

For the other FP6 instruments (with the exception of those that require the procurement procedure - certain SSAs), the Community financial contribution is a grant to the budget (as established in indent (c) of the first paragraph of Article 14 of the RP):

*“In accordance with Annex III to the Sixth Framework Programme, and within the limits of the Community framework for State aid for research and development, the Community financial contribution may take the following forms:*

*(c) For integrated projects and the other instruments, except for those covered by points (a) and (b) and indirect actions covered by Article 9(2)(b), it shall take the form of a grant to the budget, calculated as a percentage of the budget established by the participants to carry out the indirect action, adapted according to the type of activity and taking into account the cost model used by the participant concerned.”*

*The expenses needed to implement the indirect action shall be certified by an external auditor or, in the case of public bodies, a competent public officer.”*

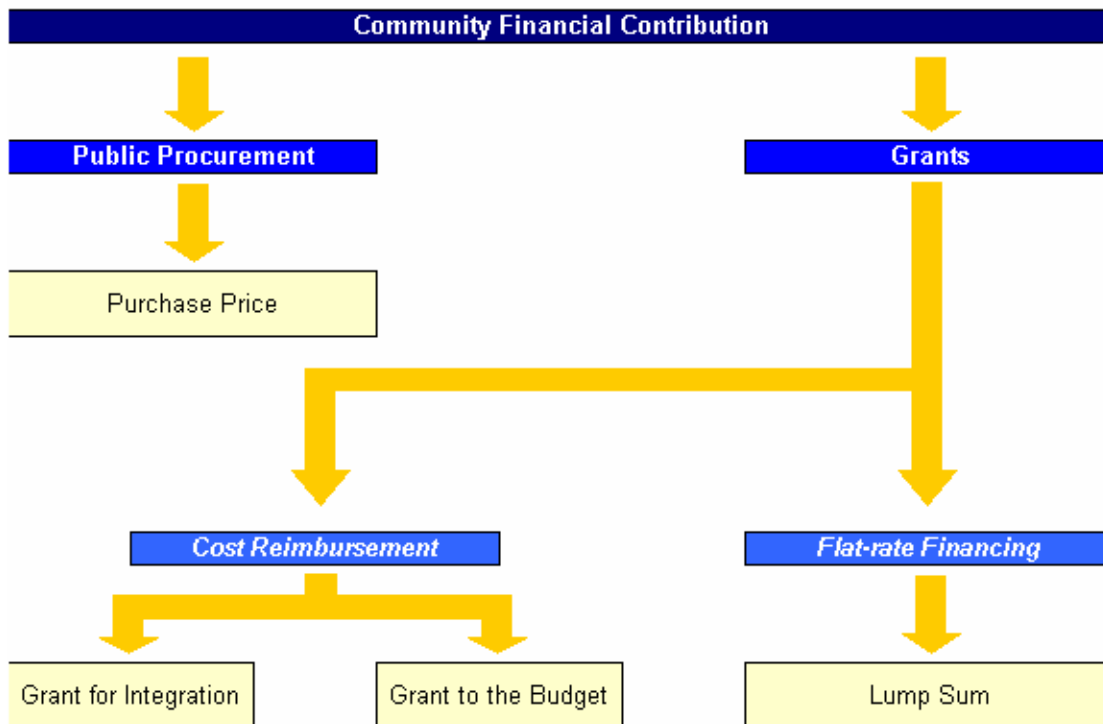
When the Community financial contribution is a Grant to the Budget, it is calculated and paid taking into account:

- the **type of activities** (Research and technological development or innovation activities ; Demonstration activities ; Training activities ; Management of the consortium activities ; other specific activities) covered by the particular **instrument** ;
- the **cost reporting model** used by the participant (full cost – FC; full cost with a flat rate for indirect costs – FCF; or additional cost with a flat rate for indirect costs – AC);
- the **maximum reimbursement rates** of eligible costs according to the type of activity and the cost reporting model used;
- any **specific provisions** of the FP6 instrument concerned

### **1.2.3- General overview of the forms of the Community financial contribution in FP6**

The two following tables summarise the forms of the Community financial contribution in FP6:

**Scheme 1 – Forms of the Community financial contribution in FP6**



**Scheme 2 – Forms of the Community financial contribution per type of instrument in FP6**

	Grants			Public Procurement
	Cost Reimbursement		Flat Rate Financing	Purchase Price
	Grant for Integration	Grant to the Budget	Lump Sum	
Networks of Excellence	•			
Integrated Projects		•		
Specific Targeted Projects		•		
Integrated Initiatives for Infrastructures		•		
Specific Research Projects for SMEs		•		
Actions to promote and develop Human Resources and Mobility		•	•	
Coordination Actions		•		
Specific Support Actions		•	•	•

## 2- FRAMEWORK OF ELIGIBLE COSTS FOR FP6 GRANTS WHICH REIMBURSE COSTS

The notion of eligible costs is defined by four levels:

- the definition of **eligible costs** itself;
- the restrictions introduced by the definitions of **direct and indirect eligible costs**, including specific provisions of some instruments;
- the restrictions introduced by the **type of activities** covered by the instrument;
- the restrictions introduced by the type of **cost reporting model** used by the participant.

### 2.1- ELIGIBLE COSTS

The notion of eligible costs is established:

- in the second paragraph of Article 14 of the RP ;
- in Article 19 of Annex II (General conditions) to the FP6 model contract (adopted by the Commission 17/03/2003, as amended on 23.10.2003).

Unlike former Framework Programmes, **no eligible cost categories** are established. The **usual accounting principles of the participants** are the basis for determining of their costs.

**Therefore, the definition of the eligible costs is based:**

- on the exclusion of any costs identified in the **list of non-eligible costs** ;
- and
- **on cumulative conditions of eligibility of the remaining costs.**

#### 2.1.1- Non-eligible costs

**Non-eligible costs** are (based on principles established by the second paragraph of Article 109 of the FR<sup>56</sup>, the first paragraph of Article 165 of the IM<sup>57</sup>, indent (d) of the second paragraph of Article 14 of RP<sup>58</sup>, and the second paragraph of Article II.19 of Annex II (General conditions) to the FP6 model contract):

*Article II.19.2. “The following non- eligible costs may not be charged to the project :*

- a) any identifiable indirect taxes, including VAT or duties;*
- b) interest owed;*
- c) provisions for possible future losses or charges;*

<sup>56</sup> See footnote n°46.

<sup>57</sup> See footnote n°49.

<sup>58</sup> RP: Article 14 – second paragraph – indent (d):

*2. Eligible expenses shall be defined in accordance with the first subparagraph of Article 12(2) and must meet the following conditions:*

*(...)*

*(d) they shall be exclusive of indirect taxes, duties and interest and may not give rise to profit.”*

- d) exchange losses;*
- e) costs declared, incurred or reimbursed in respect of another Community project;*
- f) cost related to return on capital;*
- g) debt and debt service charges;*
- h) excessive or reckless expenditure;*
- i) any cost which does not meet the conditions established in Article II.19.1.[definition of eligible costs]”*

In addition, as the costs must be actual (see point 2.1.2), non-eligible costs also include any costs calculated in accordance with other conventions (e.g. "current costs"<sup>59</sup>, "notional rents"<sup>60</sup>, "opportunity costs"<sup>61</sup>, etc.) Therefore, none of these “costs” can be charged (e.g. in respect of revaluation of buildings or capital equipment, estimated or imputed interest, estimated rentals, etc.).

### **2.1.2- General eligibility conditions for costs**

The FP6 model contract defines **eligible costs** (based on indents (a)<sup>62</sup> and (c)<sup>63</sup> of the first paragraph, the second paragraph<sup>64</sup> of Article 14 of the RP, and the first paragraph of Article II.19 of Annex II (General conditions) to the FP6 model contract) as follows:

*Article II.19.1. “Eligible costs incurred for the implementation of the project must fulfil all of the following conditions:*

- a) they must be actual, economic and necessary for the implementation of the project; and*
- b) they must be determined in accordance with the usual accounting principles of the contractor; and*
- c) they must be incurred during the duration of the project as identified in Article 4.2<sup>65</sup> except for the costs incurred in drawing up the final reports referred to in Article II 7.4, which may be incurred during the period of up to 45 days after the end of the project or the date of termination whichever is earlier; and*
- d) they must be recorded in the accounts of the contractor that incurred them, no later than at the date of the establishment of the audit certificate referred to in Article II.26. The accounting procedures used in the recording of costs and receipts shall*

<sup>59</sup> This convention estimates the purchasing power loss during a period of inflation.

<sup>60</sup> Those paid in respect of a landlord's rent, whether that landlord be in or out of the practice, come instead from a Non Cash Limited Allocation.

<sup>61</sup> This measures income which would have been earned if resources had been used elsewhere. Its reflects allocation of resources to a certain activity that precludes the performance of other activities.

<sup>62</sup> See 1.2.2.2.

<sup>63</sup> See 1.2.2.3.

<sup>64</sup> RP: Article 14 – second paragraph, first subparagraph:

*“2. Eligible expenses shall be defined in accordance with the first subparagraph of Article 12(2) and must meet the following conditions:*

- (a) they must be actual, economic and necessary for the implementation of the indirect action;*
- (b) they must be determined in accordance with the usual accounting principles of the individual participant;*
- (c) they must be recorded in the accounts of the participants or, in the case of the resources of third parties referred to in the third subparagraph of Article 8(2), in the corresponding financial documents of those third parties*
- (d) they shall be exclusive of indirect taxes, duties and interest and may not give rise to profit.”*

<sup>65</sup> The earliest starting date of a project is the day of the deadline of the call for proposals to which it was submitted. However such cases are quite rare. Nonetheless, in such cases, it is recommended to mention in the second paragraph of article 4 of the core-contract the date of the first day following the deadline of this call for proposals.

*respect the accounting rules of the State in which the contractor is established as well as permit the direct reconciliation between the costs and receipts incurred for the implementation of the project and the overall statement of accounts relating to the overall business activity of the contractor, and*

*e) in the case of contributions made by third parties established on the basis of an agreement between the contractor and the third party existing prior to its contribution to the project, and for which the tasks and their execution by such a third party are clearly identified in Annex I [Technical annex], the costs must be:*

- i) incurred in accordance with the usual accounting principles of such third parties and the principles set out in paragraph d) above;*
- ii) meet the other provisions of this Article and this Annex; and*
- iii) be recorded in the accounts of the third party no later than the date of the establishment of the audit certificate referred to in Article II.26.”*

### **2.1.2.1- The meaning of “actual, economic and necessary”**

**The following explanations will help in identifying better the nature of actual, economic and necessary features of the eligible costs.**

**Actual:** Costs must be actually incurred (real costs). That is they must be real and not estimated, budgeted or imputed. They must be recorded in the accounts or tax documents and be identifiable and controllable. This rule ensures that fictitious costs are avoided such as internal invoices, subjective estimations or opportunity costs.

To be actual, costs must be incurred during the lifetime of the project. Costs will not be eligible if they are incurred before the beginning or after the end of the duration of the project, except for the costs incurred in drawing up the final reports which may be incurred during the period of up to 45 days after the end of the project or the date of termination whichever is earlier.

**Economic:** refers to the standard of “good housekeeping” in spending public money effectively. Economy can be understood as minimising the costs of resources used for an activity (input), having regard to the appropriate quality and can be linked to efficiency, which is the relationship between the outputs, in terms of resources used to produce them. Effectiveness is concerned with measuring the extent to which the objectives have been achieved and the relationship between the intended impact and the actual impact of an activity. Cost–effectiveness means the relationship between project costs and outcomes, expressed as costs per unit of outcome achieved.

Costs must be reasonable and comply with the principles of sound financial management, with the objectives of the project and with the formal aspects of reporting of these expenditures, including the follow-up of the budget in terms of budget allocation and schedule of the cost.

Finally, costs must be in relation with the normal behaviour of the participant (e.g.: if it is the normal habit of a participant that its Director General travels in business class, this cost could be considered to be economic, as it answers to the economic environment of the participant. However, this does not mean that the Director General from another contractor, carrying out tasks under the project, can use the same principles. Normal behaviour relates to the behaviour of that contractor).

**Necessary:** the costs must be necessary for carrying out the project and directly linked to the subject matter and scope foreseen in it. The cost must be coherent with the terms of reference and also must be present in the budget included in the contract or in the description of activities (Annex I) annexed to the contract.

### **2.1.2.2- The use of usual accounting principles**

Eligible costs “*must be determined in accordance with the usual accounting principles of the contractor*” (Article II.19.1.b of Annex II to the FP6 model contract).

As there is no longer a definition of eligible cost categories, each contractor must apply, in accordance with the provisions of the contract<sup>66</sup>, its usual definition of types of eligible costs. For example, a contractor would declare the depreciation costs of equipment bought for the purpose of the project as a direct eligible cost (unless its accounting practice was to account for this type of expenditure as indirect costs). The calculation of the depreciated value would be based on its own depreciation system. For example, consumables might be considered to be any item less than a particular value and may be direct or indirect costs. Again, this must depend on the principles established by the contractor’s own accounting system (and assuming that they meet recognised standards) and not be created purely for the EC project.

Therefore, although the participants have the freedom to use their usual accounting principles, it does not mean that they have the freedom to create specific accounting principles for FP6 indirect actions. If in their usual accounting principles a particular cost is always considered as an indirect cost they have to consider it also as an indirect cost in an FP6 indirect action<sup>67</sup>.

Examples of potential eligible costs are provided in the Annex (annex 6.1).

### **2.1.2.3- The particular case of resources made available by third parties on the basis of a prior agreement**

Unlike the previous Framework Programmes, resources made available by third parties on the basis of a prior agreement may be eligible as costs of the project and potentially to reimbursement by means of the Community financial contribution. If they meet the prior conditions. (third indent of the second paragraph of Article 8 of the RP<sup>68</sup> and indent (c) of the second paragraph of Article 14 of the RP<sup>69</sup>). This is reflected in

<sup>66</sup> Especially the definitions of direct and indirect cost, as well as the requirements for the cost reporting models.

<sup>67</sup> In accordance with the definition of indirect costs provided in Article II.21 of Annex II to the FP6 model contract (except for actions to promote human resources and mobility).

<sup>68</sup> RP: Article 8 (“Conditions relating to technical competence and resources”) – second paragraph – third indent: “*The resources needed to carry out the indirect action are understood to be human resources, infrastructure, financial resources and, if necessary, intangible property and other resources made available by a third party on the basis of a prior commitment.*”

paragraph of Article II.19.1.e of Annex II (General conditions) to the FP6 model contract <sup>70</sup>.

The purpose of this provision is **not** to reduce the number of contractors<sup>71</sup>, but to take into consideration the particularities of some entities such as Joint Research Units<sup>72</sup>, European Economic Interest Groups (EEIGs) and other similar organisations where the contractor is composed of many members, each of which might make a contribution to the work of the project. For such cases, a special clause is foreseen for the contract to identify the nature of the participant and to identify the sources of third parties resources.

These are also cases for “one off” contributions of resources from third parties that are used on the project.

Two different situations must be taken into consideration:

- contributions in kind or financial contributions provided to the participant by a third party on the basis of **a prior agreement elaborated specifically for the project itself**.

In this case, those resources are considered as **eligible costs and also receipts** (unless those costs are not free) of the indirect action, and must be declared by the participants as such (see Article 165 of the IM<sup>73</sup> and indents (a) and (b) of Article II.23<sup>74</sup> of Annex II (General conditions) to the FP6 model contract).

- contributions in kind or financial contributions provided to the participant by a third party on the basis of **a prior agreement existing with or without the involvement of the participant in the project supported by the Community (no direct link with the project)**.

In this case those resources are considered as **eligible costs** and not automatically as receipts of the indirect action, and must be declared by the participants as such (Article 165 of the IM and indents (a) and (b) of Article II.23 of Annex II (General conditions) to the FP6 model contract ).

In both cases:

- the prior agreement stipulating that resources are made available by third parties to the participant must be submitted to the Commission during the negotiation phase and accepted by the Commission ;

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<sup>69</sup> See footnote n°64.

<sup>70</sup> See 2.1.2.

<sup>71</sup> Only contractors have rights and obligations towards each other and the Community. Third parties have no rights and no obligations to the other contractors or to the Community, only vis à vis the contractor with whom they have an agreement . As a consequence, their costs are non-eligible, except in the particular cases covered here.

<sup>72</sup> A Joint Research Unit means a partnership with no legal status as such, generally formed between entities of the same nationality and meeting the following conditions:

- scientific and economic unity;
- lasting a certain length of time;
- recognised by a public authority.

<sup>73</sup> See footnote n°49.

<sup>74</sup> See footnotes n°137 and n° 138.

- those third parties and their resources to be made available to the participant (on the basis of the agreement) must be identified in the technical annex (Annex I) of the contract:
  - for resources covered by a prior agreement indicating that the resources are to be used specifically for the project, those resources are eligible costs and receipts and must be declared as such in the Financial Statement per Activity (Form C)<sup>75</sup>. If the special clause to the contract indicates that those resources of the third party will be reimbursed to the third party, and that the cost model of the third party is applied, it is possible that these costs are not also considered as receipts. (This is limited to cases of EEIGs, Joint research units, and some associations)
  - for those covered by a prior agreement not indicating whether the resources have to be used for the project (agreement existing with or without the involvement of the participant in the project), those resources are eligible costs (and not receipts) and must be declared as such in the Financial Statement per Activity (Form C)<sup>76</sup>.
- the conditions of eligibility of costs applies for the third parties. As a consequence, even though they are incurred by the third party, these eligible costs will be declared by the participant<sup>77</sup> and certified by an external auditor<sup>78</sup>.

In order to determine the eligibility, nature and value of any costs of third party resources made available to the contractor, the relevant cost reporting model (according to the conditions mentioned in Article II.22 of Annex II (General conditions) to the FP6 model contract and presented in point 2.4.3 of these guidelines) must be used. (see sub-indent i) and ii) of indent e) of the first paragraph of article II.19 of Annex II (general conditions) to the FP6 model contract).

For resources provided by third parties that constitute “own resources” of the participant, the participants’ cost model is used. For resources provided specifically for the project and covered by the special clause, the cost model of the third party may apply. (see point 2.1.2.4)

#### **2.1.2.4- The particular case of single legal entities composed of several independent legal entities**

<sup>75</sup> See 3.2.3.1.1.2. and Annex 5 to these guidelines.

<sup>76</sup> See 3.2.3.1.1.2. and Annex 5 to these guidelines.

<sup>77</sup> See 3.2.3.1.1.2. and Annex 5 to these guidelines.

<sup>78</sup> See 3.2.3.1.2. and Annexes 6 and 7 to these guidelines.

The costs incurred by the members of an EEIG (or any other common legal entity created by several independent legal entities), whose statutes clearly mentions that the members have made available some of their resources to the common legal entity, are eligible (see the fourth paragraph of Article 5 of the RP<sup>79</sup> and the special condition n°23 or 23bis for Marie Curie actions<sup>80</sup> to the FP6 model contract). According to the special

<sup>79</sup> RP – Article 5 – fourth paragraph:

“4. *An EEIG or any legal entity established in a Member State or associated State according to its national law and which is made up of independent legal entities meeting the criteria of this Regulation may be the sole participant in an indirect action, provided that its composition is in accordance with the conditions fixed pursuant to the provisions of paragraphs, 1 and 2.*”

<sup>80</sup> Special clause n° 23 and 23 bis for Marie Curie contracts

### **23) Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]**

1. **[Option A : For Joint research units ]** The *contractor* [*name of the contractor*] represents also the following members of [*name of the JRU*] (referred to in this special clause as “member(s)

--[*name of the legal entity*].

---[*name of the legal entity*].]

**[Option B : For legal entity composed of legal entities, i.e EEIG, Enterprise groupings.. ]** The *contractor* [*name of the contractor*] represents also its *members* (referred to in this special clause as “members”)

2. The *contractor* may charge costs incurred by the *members* in carrying out the project, in accordance with the provisions of the *contract*. These costs shall not be considered as receipts of the *project*.

The *members* shall identify the costs to the *project* in accordance with the provisions of part B of the *contract*. Each *member* shall apply a cost reporting model in accordance with the principles established in articles II.19, II.20 and II.21, The *contractor* shall provide to the *Commission*:

- an individual financial statement from each *member* in the format specified in Form C. These costs shall not be included in the *contractor's* Form C
- an audit certificate from each *member* in accordance with the relevant provisions of this *contract*
- a summary financial report consolidating the sum of the eligible costs borne by each *member* and the *contractor*, as stated in their individual financial statements, shall be appended to the *contractor's* Form C.

When submitting reports referred to in Article II.7, the *consortium* shall identify work performed and resources deployed by each *member*.

3. The eligibility of the *member's* costs charged by the *contractor* is subject to controls and audits of the *members*, in accordance with Article II.29.

4. The *contractor* shall retain sole responsibility toward the *Community* and the other *contractors* for its *members*. The *contractor* shall ensure that the *members* abide by the provisions of the *contract*.

### **23 bis) Only for Marie Curie contracts - Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]**

1. **[Option A: For Joint research units]** The *contractor* [*name of the contractor*] represents also the following members of [*name of the JRU*] (referred to in this special clause as “member(s)”)

--[*name of the legal entity*].

---[*name of the legal entity*].]

**[Option B: For legal entity composed of legal entities, i.e EEIG, Enterprise groupings...]** The *contractor* [*name of the contractor*] represents also its *members* (referred to in this special clause as “members”)

clause that can be used in the contract for such contractors, the costs of the members of the EEIG or JRU or other similar entity, if they are reimbursed to that member and not provided free of charge to the EEIG, are not considered to be receipts of the project.

**2.1.2.5- The restriction on the eligibility of any premium paid for a loan guarantee**

The costs of any premium paid by a participant for a loan guarantee may be eligible so long as:

- that participant is an SME; and
- the guarantee covers only up to 80% of the value of the loan; and
- the costs of the loan guarantee premium meet the eligibility criteria established in the FP6 model contract.

(see Article II.19.4 of Annex II (General conditions) to the FP6 model contract)

*“Any SME may claim under the research and technological development/innovation or demonstration activities the costs of any premium it must pay for a loan guarantee. However the proportion of the loan that is guaranteed may not exceed 80% of the loan, where the costs of such a loan guarantee meet the other criteria established by paragraph 1 of this Article.”*

**2.2- DIRECT AND INDIRECT ELIGIBLE COSTS**

2. The *contractor* may charge costs incurred by the *members* in carrying out the project, in accordance with the provisions of the *contract*. These costs shall not be considered as *receipts* of the *project*.

The *members* shall identify the costs to the *project* in accordance with the provisions of part B of Annex II and of Annex III of the *contract*. The *contractor* shall provide to the *Commission*:

- an individual financial statement from each *member* in the format specified in Form C. These costs shall not be included in the *contractor*'s Form C
- an audit certificate from each *member* in accordance with the relevant provisions of this *contract*
- a summary financial report consolidating the sum of the eligible costs borne by each *member* and the *contractor*, as stated in their individual financial statements, shall be appended to the *contractor*'s Form C.

When submitting reports referred to in Article II.7, the [*for Marie Curie monocontractor - contractor*] [*for Marie Curie multicontractor – consortium*] shall identify work performed and resources deployed by each *member*.

3. The eligibility of the *member*'s costs charged by the *contractor* is subject to controls and audits of the *members*, in accordance with [*for Marie Curie monocontractor- Article II.25*] [*for Marie Curie multicontractor- Article II.26*].

4. The *contractor* shall retain sole responsibility toward the *Community* and the other *contractors* for its *members*. The *contractor* shall ensure that the *members* abide by the provisions of the *contract*.

In addition to the definition of eligible costs, the FP6 model contract also distinguishes between **direct eligible costs** and **indirect eligible costs**.

### **2.2.1- Direct eligible costs**

Direct costs are defined in general terms as those items of cost, related to a specific cost objective that are specifically **traced or caused** by that cost objective.

Therefore direct costs are those costs **directly related to the project**, which can be clearly identified and justified by the **accounting rules and principles of the contractor**. (Article II.20.1 of Annex II (General conditions) to the FP6 model contract) :

*“Direct costs are all those costs which meet the criteria established in Article II.19 above [eligible costs of the project], can be identified by the contractor in accordance with its accounting system, and can be attributed directly to the project.”*

#### **2.2.1.1- The particular case of subcontracting**

Subcontracts may be, by definition, a form of direct eligible costs.

However, as a general rule contractors are to have the capacity to carry out the work themselves. (see the first sentence of the first paragraph of Article II.6 of the Annex II (General conditions) to the FP6 model contract):

*Contractors shall ensure that the work to be performed, as identified in Annex I [technical annex], can be carried out by them.*

In other words, **subcontracting is a derogation** to the general rule that stipulates that the tasks of a project are to be realised by the contractors.

**The specific conditions** for subcontracting are:

- A subcontract is defined by indent 26 of Article II.1 of Annex II (General conditions) to the FP6 model contract:

*“Subcontract: means an agreement to provide services relating to tasks required for the project and which cannot be carried out the contractor itself, concluded between a contractor and one or more subcontractors for the specific needs of the project.”*

Since a **sub-contract relates to the production of a service**, it should be clear that any intellectual property resulting from any subcontracted work belongs to the contractor and must be at the entire disposal of the contractor.

- In addition, the conditions for awarding subcontracts are (first sentence of the second paragraph of Article II.6 of Annex II (General conditions) to the FP6 model contract):

*“Any subcontract, the costs of which are to be claimed as an eligible cost, must be awarded to the bid offering best value for money (best price-quality ratio), under conditions of transparency and equal treatment.”*

This means that full competitive tender is not necessary for all subcontracts.

This means that:

- **any subcontract**, the costs of which will be claimed under the project, **must be offered to the best bid** in compliance with the national legislation of the contractor concerned.

A public legal entity must apply its internal rules for selection of service – providers (public call for tender) and a private legal entity must at least require submission of several quotes (usually a minimum of three), unless it has an established framework contract for the provision of those services.

- The **procedure must ensure conditions of transparency and equal treatment**.

At the request of the Commission and especially in the event of an audit, contractors must be able to demonstrate that they have respected the conditions of transparency and equal treatment.

Contractors must be able to prove that:

- ✓ the criteria and conditions of submission and selection are clear and identical for any legal entity offering a bid ;
- ✓ there is no possibility of conflict of interest in the selection of the proposals ;
- **The selection must be based on the best value for money** given the quality of the service proposed (best price-quality ratio).
  - ✓ it is not necessary to select the lowest price;
  - ✓ the criteria defining “quality” must be clear and coherent according to the purpose of the task needed a subcontract, in order to provide a good analysis of the ratio price/quality;

- Subcontracts may relate only to a limited part of the project (indent (a) of the second paragraph of Article II.6 of Annex II (General conditions) to the FP6 model contract):

*“they may only cover the execution of a limited part of the project” ;*

And they are carried out only by third parties (indent 27 of Article II.1 of Annex II (General conditions) to the FP6 model contract):

**“Subcontractor:** *means a third party carrying out tasks identified in Annex I or minor tasks not relating to the core work of the project, by means of a subcontract with one or more of the contractors.”*

This means that subcontracting between contractors is not possible, except in very particular cases. (It might be the case where a different independent department of one contractor, not involved in the project, has provided a service to another contractor. However, this should be avoided to the extent possible.).

Therefore, generally **core elements of the project can not be subcontracted**. If it is proposed to subcontract a core element of the project:

- either the prior approval by the Commission must be obtained regarding the nature of the services to be provided (and they must be clearly identified in Annex I to the contract) ;
- or the subcontractor should participate as a contractor ;
- or the tasks concerned should be redistributed among the contractors.

For example the totality of the tasks of the management of the consortium activities<sup>81</sup> can not be subcontracted by the coordinator, since each contractor will have to have some share in these activities by virtue of the audit certificates and management of the consortium is an activity present in each type of instrument. Also the management activity is a core element of the project.

However, some minor tasks, like the organisation of a consortium conference, might be subcontracted. The financial, legal and administrative management of the project can not be subcontracted, and more especially the tasks which are legal obligations of the coordinator. (third paragraph of Article II.3 of Annex II (General conditions) to the FP6 model contract<sup>82</sup>).

- As established in indent (b) of the second paragraph of article II.6 of Annex II (General conditions) to the FP6 model contract:

*“recourse to the award of subcontracts must be justified having regard to the nature of the action and what is necessary for its implementation;”*

- ✓ If the tasks to be subcontracted can be carried out by the contractors, the proposed subcontract must be refused ;
- ✓ If the tasks to be subcontracted do not concern the provision of a service or concern the provision of a service that is not necessary for the project, the proposed subcontract must also be refused ;
- ✓ If the tasks to be subcontracted concern a core element of the project, the proposed subcontract must be refused, unless there has been justification in the proposal accepted by the Commission and included clearly in Annex I to the contract;

<sup>81</sup> See 2.3.4.

According to the provisions of article II.26 of Annex II (General conditions) to the FP6 model contract, as there is no condition other than its capacity, for the choice of an auditor able to deliver auditor certificates, the provisions relating to subcontracting do not apply for the selection of such an auditor. However, the other elements of the contract must be applied with relation to the price paid to the auditor and the eligibility of those costs (particularly, actual and economic)

<sup>82</sup> FP6 model contract – Annex II – Article II.3 – third paragraph:

*“The coordinator shall:*

*a) ensure that the tasks identified in Article 2 of the contract regarding accession to the contract are carried out in a timely manner.*

*b) be the intermediary for communication between the contractors and the Commission in accordance with the provisions of Article 11, with the exceptions foreseen in the contract.*

*c) receive all payments made by the Commission to the consortium and administer the Community contribution regarding its allocation between contractors and activities in accordance with this contract and the decisions taken by the consortium. The coordinator shall ensure that all the appropriate payments are made to contractors without unjustified delay.*

*d) keep accounts making it possible to determine at any time what portion of the Community funds has been paid to each contractor for the purposes of the project. The coordinator shall inform the Commission of the distribution of the funds and the date of transfers to the contractors.”*

- ✓ **If the tasks to be subcontracted:**
    - ❖ **can not be realised by the contractors ; and**
    - ❖ **concern the production of a service necessary for the good implementation of the project; and**
    - ❖ **do not constitute a core element of the project ;**
- they can be subcontracted. The modalities for selecting subcontractors must be applied.**

However, some minor services may be subcontracted without going through the full procedures indicated above (third sentence of the first paragraph of Article II.6 of Annex II (General conditions) to the FP6 model contract) :

*“During the implementation of the project, contractors may subcontract other minor services, which do not represent core elements of the project work, which cannot be directly assumed by them and where this proves necessary for the performance of their work under the project.”*

- **as a general rule, the tasks to be subcontracted need the prior agreement of the Commission.** As those tasks are mentioned in the technical Annex, their necessity (and therefore the necessity of their costs) is accepted by the Commission (indent (c) of the second paragraph of article II.6 of Annex II (General conditions) to the FP6 model contract):

*“the tasks concerned must be set out in Annex I [Technical annex].<sup>83</sup>”*

- **By derogation to this general rule, contractors are free to subcontract minor tasks that have not been identified as subcontracts in the technical annex but with the additional obligation to justify the necessity of those subcontracts, and their compliance with the contractual provisions, at the relevant periodic justification.**
- Even though certain subcontracted services may be performed by a subcontractor, the contractor maintains full responsibility for its actions and must ensure that certain the provisions of the model contract are reflected in the agreement with the subcontractor (indent (d) of the second paragraph of Article II.6 of Annex II (General conditions) to the FP6 model contract):

*“the contractor shall retain sole responsibility for carrying out the action and for compliance with the provisions of the agreement. The contractor must undertake to make the necessary arrangements to ensure that the subcontractor waives all rights in respect of the Commission under the contract”*

<sup>83</sup> The same information is also provided in the second sentence of the first paragraph of article II.6 of Annex II (General conditions) to the FP6 model contract:

*“However, where it is necessary to subcontract certain elements of the work to be carried out, this should be clearly identified in Annex I.”*

(indent (e) of the second paragraph of Article II.6 of Annex II (General conditions) to the FP6 model contract):

*“the contractor must undertake to ensure that the conditions applicable to it under Articles II.9, II.10, II.11, II.12, II.28.8 and II.29 of the contract are also applicable to the subcontractor.”*

- It is the responsibility of the contractors to ensure that all tasks are carried out, including subcontracted tasks, whatever the reasons might be<sup>84</sup>;
- In its agreement with the subcontractor (the subcontract), the contractor must ensure that:
  - the subcontractor waives all rights in respect of the Commission under the contract ;
  - the following provisions of Annex II (General conditions) to the FP6 model contract are extended to the subcontractor:
    - ✓ Confidentiality (Article II.9)
    - ✓ Communication of data for evaluation, impact assessment, standardisation purposes and communication of information beyond the research community (Article II.10)
    - ✓ Information to be provided to Member States or Associated States (Article II.11)
    - ✓ Publicity (Article II.12)
    - ✓ Payment modalities (suspension of payments) (Article II.28.8)
    - ✓ Controls and audits (Article II.29)

For controls and audits (Article II.29), it is important to note that the auditing rights of the Commission and Court of Auditors must be extended to the subcontractors (as established by its seventh paragraph):

*“Contractors shall ensure that the rights of the Commission and the Court of Auditors to carry out audits are extended to the right to carry out any such audit or control on any subcontractor or third party whose costs are reimbursed in full or in part by the Community financial contribution, on the same terms and conditions as indicated in this Article.”*

The contractor must ensure that its agreement with the subcontractor, mentions in particular that:

- the Commission may, at any time during the contract and up to five years after the end of the project, arrange for audits to be carried out, either by outside scientific or technological reviewers or auditors, or by the Commission departments themselves including OLAF ;

<sup>84</sup> The same information is also provided in the third paragraph of article II.6 of Annex II (General conditions) to the FP6 model contract (except for actions to promote human resources and mobility):

*“Where the contractors enter into subcontracts to carry out some parts of the tasks related to the project, they remain bound by their obligations to the Commission under the contract.”*

- The European Court of Auditors shall have the same rights as the Commission, notably right of access, for the purpose of checks and audits, without prejudice to its own rules.

As a consequence, in addition to the tasks subcontracted, it is recommended to identify to the Commission the name of the subcontractors carrying out any subcontracted tasks identified in the technical Annex of the contract (Annex I) as soon as they are known.

Finally, it is strongly recommended to bring to the attention of the Commission services, at the time of negotiation, the intention or possibility of engaging with subcontractors established in a third country whose participation and/or funding conditions, according to article 6 of the RP, depend on a Commission ad hoc decision stipulating that it is essential for carrying out the indirect action. The exception would be where the contractor proposing to subcontract to subcontractors established in that third country is also established in the same third country.

### **2.2.2- Indirect eligible costs**

Indirect costs are elements of costs that **are associated with or caused by** two or more cost objectives jointly, but they are not directly traced to each of them individually. The nature of an indirect cost is such that it is not possible, or at least not feasible, to measure directly how much of the cost is attributable to a single cost objective.

Therefore, indirect costs are those costs that are **not directly related to the project**, not identified as direct costs, and which do not include any costs already directly charged to the project. They are determined in accordance with the accounting principles of the contractor and are in direct relationship with the direct eligible costs of the project.

Article II.21 of Annex II (General conditions) to the FP6 model contract stipulates that:

*“Indirect costs are all those costs, which meet the criteria established in Article II.19 [eligible costs of the project], which cannot be identified by the contractor as being directly attributed to the project but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project.*

*Indirect costs may be charged to the project under the full cost model, to the extent that they represent a fair apportionment of the overall overheads of the organisation.”*

Under certain conditions, some participants (see 2.3) may charge a lump sum (flat rate) deemed to cover their indirect costs (Article 181 of the IM<sup>85</sup> and the second indent of Article 14 of the RP<sup>86</sup>).

For FP6 projects, this applies to those contractors using the additional cost model with a flat rate for indirect costs (AC) or the full cost model with a flat rate for indirect costs (FCF).

<sup>85</sup> See footnote n°53.

<sup>86</sup> See footnote n°54.

Subject to the accounting principles of the contractors, the following items may be considered as indirect eligible costs:

- costs related to general administration and management;
- costs of office or laboratory space, including rent or depreciation of buildings and equipment, and related expenditure such as water, heating, electricity, maintenance, insurance and safety costs;
- communication expenses, network connection charges, postal charges and office supplies;
- common office equipment such as PC's, laptops, office software;
- miscellaneous recurring consumables ;
- ...

providing they can be identified and justified by the accounting system of the participant as being incurred in direct relationship with the eligible direct costs attributed to the project.

Such costs are deemed to be covered by the flat rate contribution to indirect costs for those contractors using the FCF and AC cost models.

For those using the FC cost model, indirect eligible costs must be:

- Eligible costs
- Reasonable and capable of verification, i.e. based on factual elements which can be proven by the contractor and verified by the Commission (for example global assumptions or existing commercial practice statements, or any other unsupported statements will not be accepted).
- Not included under direct eligible costs

And, the following principles should be respected:

- Indirect eligible costs must be in accordance with normal accounting conventions of the contractor.
- Indirect eligible costs should be extracted from or reconciled with the official accounts
- Indirect eligible costs that do not relate to EC research should not be included in indirect costs for EC-funded projects.

Different methods and keys may be used for the distribution of the indirect eligible costs, in compliance with the usual accounting principles of the participant. However, it must be noted that:

- No subjective or arbitrary keys can be accepted ;
- Participants charging actual indirect eligible costs (FC) will have to justify their indirect costs in their audit certificates or in the event of an audit;
- Participants charging a flat rate for their indirect eligible costs will use the flat rate proposed in the cost model they use (FCF and AC). However, where their internal

rules require the use of a lower percentage, or if it is their request, they may request a lower flat-rate. This should be raised during contract negotiation with the Commission services in order to introduce the relevant special clause in the contract<sup>87</sup>.

## **2.3- TYPE OF ACTIVITIES**

Direct and indirect eligible costs must be declared by each participant according to the type of activities in which it is involved and the activities permitted by each instrument.

**Five types of activities** are proposed in the instruments of FP6 (Article II.2<sup>88</sup> of Annex II (General conditions) to the FP6 model contract).

### **2.3.1- Research and technological development or innovation activities**

#### **2.3.1.1- Research and technological development activities**

Research and technological development activities may include:

- research designed to broaden scientific and technical knowledge not linked to industrial or commercial objectives<sup>89</sup>;
- research of critical investigation aimed at the acquisition of new knowledge, the objective being that such knowledge may be useful in developing new products, processes or services or in bringing about a significant improvement in existing products, processes or services<sup>90</sup>.

#### **2.3.1.2- Innovation activities**

Consortia are encouraged to include **innovation-related activities** in their project, and such activities will be supported by EC funding under the same conditions as R&D activities.

Typical examples of innovation-related costs include:

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<sup>87</sup> Special clause n°13) **Contractors with flat rate overheads of less than 20 %**

Notwithstanding the provisions of Articles II.22 and II.25, the percentage of overheads for *contractor* [name] is fixed at [x<20%] of the total eligible direct cost.

<sup>88</sup> FP6 model contract – Annex II – Article II.2 (“Activities):

*“The project includes, as indicated in the table of indicated breakdown of resources and activities in Annex I one or more of the following activities.*

*1. Research and technological development or innovation activities*

*2. Demonstration activities*

*3. Training activities*

*4. Management of the consortium activities (...)*

*5. Other specific support activities”*

<sup>89</sup> **Fundamental research** as defined by Annex I of the Community framework for state-aid for research and development (OJ C 45, 17.2.1996, p 5).

<sup>90</sup> **Industrial research** as defined by Annex I of the Community framework for state-aid for research and development (OJ C 45, 17.2.1996, p 5).

- **intellectual property protection:** protection of the knowledge resulting from the project (including patent searches, filing of patent (or other IPR) applications, etc.);
- **dissemination activities** beyond the consortium: publications, conferences, workshops and Web-based activities aiming at disseminating the knowledge and technology produced;
- **studies on socio-economic aspects:** assessment of the expected wider societal impact of the knowledge and technology generated, as well as analysis of the factors that would influence their exploitation (e.g. standardisation, ethical and regulatory aspects, etc.);
- **activities promoting the exploitation of the results:** development of the plan for the use and dissemination of the knowledge produced, feasibility studies for the creation of spin-offs, etc, "take-up" activities to promote the early or broad application of state-of-the-art technologies. Take-up activities include the assessment, trial and validation of promising, but not fully established, technologies and solutions, and easier access to and the transfer of best practices for the early use and exploitation of technologies. In particular, they will be expected to target SMEs.

In addition, innovation activities can cover activities carried-out by "*organisations that possess specific competence in management, dissemination and transfer of knowledge*" which are allowed to participate in FP6 projects, even if they don't carry out any R&D activity<sup>91</sup>.

### **2.3.2- Demonstration activities**

“Demonstration” means shaping the results of industrial research into a plan, arrangement of design for new, altered or improved products, processes or services, whether they are intended to be sold or used, including the creation of an initial prototype which could not be used commercially. This may also include the conceptual formulation and design of other products, processes or services and initial demonstration projects or pilot projects, provided that such projects cannot be converted or used for industrial applications or commercial exploitation. It does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements<sup>92</sup>.

Demonstration activities cover those activities of the project, finalised at validating at laboratory or pre-industrial scale single or set of technologies in order to prove their viability for future applications and commercialisation. They may include (but are not limited to):

- Prototype design and assembly;
- Test bench validation;
- Large infrastructure use for testing prototypes;
- Pre-certification for testing purpose;

<sup>91</sup> Established in Chapter II of the RP, any legal entity may participate in the indirect actions of the FP6.

<sup>92</sup> **Precompetitive development activity** as defined by Annex I of the Community framework for state-aid for research and development (OJ C 45, 17.2.1996, p 5).

- Etc.

### **2.3.3- Training activities**

The purpose of training activities is to provide advanced training of researchers and other key staff, research managers, industrial executives (in particular for SMEs), and potential users of the knowledge produced within the project. Such training activities should contribute to the professional development of the persons concerned.

**However, salary costs of those being trained are not eligible:** (Article II.25 of the Annex II (General conditions) to the FP6 model contract):

*“For training activities, the salary costs of those being trained are not eligible costs under this activity.”*

Training also covers activities carried-out by specialist training organisations which may participate in FP6 projects as contractors, even if they do not carry out specific RTD tasks.

**NB:** training activities do not cover the costs of a doctoral student or post-doctoral researcher. The salary or other costs of those people, if they are involved in the project, is declared under the type of activities in which they are involved, to the extent that they are linked to work carried out under the project.

### **2.3.4- Management of the consortium activities**

Management of the consortium activities cover actions that can be carried out by every contractor or can be limited to only a few contractors (except for the audit certificates) include the following tasks (fourth paragraph of Article II.2 of Annex II to the FP6 model contract):

*“- obtaining audit certificates by each of the contractors.  
 - implementation of competitive calls by the consortium for the participation of new contractors, in accordance with the provisions of the contract.  
 - maintenance of the consortium agreement if it is obligatory  
 - obtaining any financial security such as bank guarantees when requested by the Commission ;  
 - any other management activities at the consortium level not covered by any other activity, such as:  
   - coordination of the technical activities of the project;  
   - the overall legal, contractual, ethical, financial and administrative management;  
   - coordination of knowledge management and other innovation-related activities;  
   - overseeing the promotion of gender equality in the project;  
   - overseeing science and society issues related to the research activities conducted within the project;  
 - any other management activities foreseen by the annexes.”*

The costs of these management activities are reimbursed at a rate of 100% to all contractors regardless of their cost model, up to a limit of 7% of the Community

financial contribution to the project: (third paragraph of Article 14 of the RP<sup>93</sup>, and the final paragraph of Article II.25 of Annex II (general conditions) to the FP6 model contract):

*“The costs relating to management activities identified in Article II.2 [definitions] may be charged, up to the maximum level of Community reimbursement for management activities [7% of the Community financial contribution- see table of Article II.25]. Where the costs incurred for management activities exceed the limit of 7% of the Community financial contribution, such costs may be charged to the other relevant activity to which they correspond if they meet the conditions of Articles II.19 [eligible costs of the project], II.20 [direct costs], and II.21 [indirect costs] applicable to those activities.”*

Once the limit of 7% of the Community financial contribution is reached, a management activity that is linked to another activity of the project can be charged under this activity if that activity is necessary to carry out the project. In that case, the maximum reimbursement rate of eligible costs for that activity per cost model applies.

The limitation of 7% of the Community financial contribution does **not** apply to **each** individual contractor but to the project as a whole.

Finally, management of the consortium activities also cover activities carried-out by organisations specialised in project management which are allowed to participate in FP6 projects, even if they do not carry out specific RTD tasks.

### **2.3.5- Other specific activities**

Other specific activities refer to any activity other than those described above, specific to certain instruments and foreseen in any Annex of the contract (especially Annex I: technical annex):

- For a Network of Excellence (NoE), it is the Joint Programme of Activities ;
- For an Integrated Infrastructures Initiative (I<sup>3</sup>), it is:
  - As an obligation, the coordination / networking activities;
  - As a possibility:
    - ✓ International access to research infrastructures;
    - ✓ Connectivity activities
    - ✓ Any other specific activities

Therefore, an I<sup>3</sup> must be composed of:

- ✓ an obligatory coordination / networking activity;
- ✓ and one or more of the following activities:
  - ❖ research and technological development or innovation activities
  - ❖ demonstration activities

<sup>93</sup> RP: Article 14 – third paragraph:

*“Costs for management of the consortium shall be reimbursed up to 100 % of the costs incurred and shall include the cost of audit certificates. In this case legal entities which participate in the indirect action on an additional cost basis may claim the full costs they have incurred for management, in so far as they can produce detailed evidence of them. The contracts shall lay down a maximum percentage of management costs in relation to the Community contribution. A share of no more than 7 % shall be reserved for management costs by the consortium.”*

## ❖ other specific activities

- For a Coordination Action (CA), it is the coordination / networking activities;
- For a Specific Support Action (SSA), it is by definition the specific activities of the action, including, in some specific cases, international access to research infrastructures.

### 2.3.6- Overview of the type of activities per type of instrument

The following table indicates the different types of activity proposed per type of instrument:

**Scheme 3 – Type of activities per type of instrument**

Types of instruments and/or actions / Types of activities		Research and technological development or innovation activities	Demonstration activities	Training activities	Management of the consortium activities	Other specific activities
Network of excellence					•	•
Integrated project		•	•	•	•	
Specific targeted research or innovation project		•	•		•	
Specific research project for SMEs	Cooperative research	•			•	
	Collective research	•		•	•	
Integrated infrastructures initiative		•	•		•	•
Coordination action	Classical			•	•	•
	For Infrastructures				•	•
Specific support action					•	•

N.B.: No training activities are permitted for coordination actions related to infrastructures<sup>94</sup>.

NB: Specific support actions for infrastructures that include transnational access to infrastructures include a special clause to this effect and the transnational access is covered by the other specific activity. See special clause n° 17 in Annex 6.9.

N.B.: Training activities are possible in collective research but not in co-operative research.

<sup>94</sup> See special clause 11 in Annex 6.9

## 2.4- COST REPORTING MODELS

Direct and indirect eligible costs charged by the participant under the type of activities in which it is involved in the project must be declared according to a cost reporting model (Article 14 of the RP).

### 2.4.1- Cost models applicability

- The cost models are applicable to all instruments in FP6 where the Community financial contribution is a Grant for Integration (Networks of Excellence) or a Grant to the Budget (Integrated Projects, Specific Targeted Research or Innovation Projects, Specific Actions for SMEs, Integrated Infrastructure Initiatives, Coordination Actions, and Specific Support Actions that are not supported by means of a lump sum grant).
- They do not apply to those instruments where the Community financial contribution is a lump sum grant (some Specific Support Actions and some Actions promoting human resources and mobility) or for public procurement (some Specific Support Actions).

### 2.4.2- Cost models proposed

**Three main cost models** are available to the participants (second paragraph of article 14 of the RP<sup>95</sup> and footnote n°3 of the table of Section 2 of Annex III of the FP6-EC)<sup>96</sup> as established by the model contract. (first paragraph of Article II.22 of the Annex II (General conditions to the FP6 model contract):

- **Full Cost with actual indirect costs model (FC)**

In this model, **eligible direct and indirect costs** are charged by the contractor.

This model allows participants to charge all their eligible costs to the project (as established by indent (a) of the first subparagraph of the second paragraph of Article 14 of the RP)<sup>97</sup>. As such, it is the **model by default** for virtually all types of legal entity<sup>98</sup>.

- **Full Cost with flat rate for indirect costs model (FCF)**

In this model, eligible direct costs and a flat rate for indirect costs are charged by the contractor. The flat rate applied is a fixed contribution equal to 20% of all direct eligible costs minus the direct eligible costs of sub-contracts.

This model is available to a limited number of types of legal entities (Article II.22.2 to the FP6 model contract)<sup>99</sup>. As such, it is a **derogation model**.

<sup>95</sup> See footnotes n°54 and n°64.

<sup>96</sup> FP6-EC: Annex III – Section 2 – Table – Footnote n°3:

*“(s) Subject to specific conditions specific legal entities, particularly public bodies, will receive funding of up to 100 % of their marginal/additional cost.”*

<sup>97</sup> RP: Article 14 – second paragraph – first subparagraph – indent (a):

*“2. Eligible expenses shall be defined in accordance with the first subparagraph of Article 12(2) and must meet the following conditions:*

*(a) they must be actual, (...)”*

<sup>98</sup> Except for physical persons.

<sup>99</sup> *“Contractors that are SMEs, non commercial or non-profit organisations established either under public law or private law, or international organisations may use the full cost model with a flat rate for overheads (FCF).”*

- **Additional direct costs with flat rate for indirect costs model (AC)**

In this model, eligible direct additional costs and a flat rate for indirect costs are charged by the contractor. The flat rate is a fixed contribution equal to 20% of all **direct additional** eligible costs minus the direct additional eligible costs of sub-contracts.

This model is available to certain types of legal entities that are public bodies and is conditioned by the provisions of the model contract. It is limited to non commercial or non-profit organisations established either under public law or private law or international organisations; which do not have an accounting system that allows the share of their direct and indirect costs to the project to be distinguished. As such, it is also a **derogation model**.

**Direct additional eligible costs** are defined as follows (second paragraph of Article II.20 of Annex II (General conditions) to the FP6 model contract):

*“Contractors using the additional cost model may charge to the project only those direct costs that are additional to their recurring costs. Any such direct additional costs specifically covered by contributions from third parties are excluded. Direct costs of personnel shall be limited to the actual costs of the personnel assigned to the project where the contractor has concluded with the personnel:*

- *a temporary contract for working on Community RTD projects ,*
- *a temporary contract for completing a doctorate,*
- *a contract which depends, in full or in part, upon external funding<sup>100</sup> additional to the normal recurring funding of the contractor. In that case, the costs charged to this contract must exclude any costs borne by the normal recurring funding”.*

**NB:** By derogation to the above definition of additional eligible costs, participants using the AC model may charge eligible direct costs (additional **and non-additional**) under the management of the consortium activities, providing they are able to calculate them and to produce detailed evidence of them (third paragraph of Article 14 of the RP<sup>101</sup> and as established by footnote n°10<sup>102</sup> of Annex II (general conditions) to the FP6 model contract).

Therefore, any contractor using the AC model may charge the cost of permanent staff involved in the project:

- for management of the consortium activities, providing that the contractor can identify and justify these costs precisely (in these cases the flat rate does not apply to these costs – it is limited to 20% of direct additional costs) ;
- for other activities, providing such people have a contract which depends in full or in part upon external funding additional to the normal recurring funding of the contractor. If such permanent people receive the same salary with or without being involved in this indirect action of the Community, their costs are not additional even though they may have additional work. (see point 6.1.1)

<sup>100</sup> Contracts dependant upon external funding may include contracts necessary to permit permanent personnel to carry out additional work required for the *project*, which is dependant upon external funding.

<sup>101</sup> See footnote n°93.

<sup>102</sup> FP6 model contract – Annex II – Footnote n°10:

*“Permanent personnel which do not meet the criteria established in this Article may be charged to eligible costs incurred by contractors using the AC model under Management Activities identified in Article II.2, and within the limits established by Article II.28 where these costs can be identified with precision by the contractor.”*

## **User Fee: a further special cost reporting model exists for participants in instruments involving access to infrastructure (see 2.4.5)**

### **2.4.3- Access conditions to the Cost models**

As mentioned above, access conditions to a cost model depend on the type of legal entity concerned, and for some of them to their accounting capacity (Article II.22 of Annex II (General conditions) to the FP6 model contract):

- All legal entities can use the FC model with the exception of physical persons (Article II.22.2 - first sentence: *"All contractors, except for physical persons may use the full cost (FC) model."*);

Contractors using this model should be able to identify all their eligible direct and indirect costs for the project.

- Physical persons<sup>103</sup> use the AC model (Article II.22.3 - second paragraph : *"Contractors which must use the additional cost model are physical persons "*) (however see point 2.4.7);
- The Full Cost Flat Rate (FCF) model is available to SMEs, international organisations and non-commercial or non-profit organisations. They must be able to identify their eligible direct costs for the project. They can then add a flat rate of 20% of direct costs (except for subcontracting) to cover indirect costs. Reimbursement of these costs depends on the rate applicable to the activity and the instrument.(Article II.22.2 : *"...Contractors that are SMEs, non-commercial or non-profit organisations established either under public law or private law, or international organisations may use the full cost model with a flat rate for overheads (FCF)."*)
- The Additional Cost model (AC) is available to international organisations and other public bodies that are non-commercial or non-profit organisations that, as indicated by the model contract, "do not have an accounting system that allows the share of direct and indirect costs relating to the project to be distinguished". These organisations charge their eligible additional direct costs incurred under the project, which are reimbursed at 100% whatever the activity (*there is a special exception for management activities where permanent personnel may be charged if the direct costs can be identified however the flat rate for indirect costs is not applied to these direct costs*) and whatever the instrument. (The other exception is Networks of Excellence where the grant for integration is based upon the headcount of researchers and may or may not reimburse all the additional costs of participants using the AC model. Contractors in Networks of Excellence must determine in their consortium agreement how and on what conditions the grant will be distributed.)
- (Article II.22.2: *"All contractors, except for physical persons may use the full cost (FC) model. Contractors that are SMEs, non-commercial or non-profit organisations established either under public law or private law, or international organisations may use the full cost model with a flat rate for overheads (FCF)."*) and (Article II.22.3 - first paragraph: *"Contractors which may use the additional cost*

<sup>103</sup> Physical persons are not single person companies or unincorporated companies. These may be considered as SMEs.

*model are non-commercial or non-profit organisations established either under public law or private law, or international organisations; which do not have an accounting system that allows the share of their direct and indirect costs relating to the project to be distinguished.").*

This means that such entities are eligible to use the additional cost model if they cannot distinguish the share of direct and indirect costs which will be involved in the project (ie they are not able to calculate the share of the direct and indirect costs to the project). They may be able to indicate overall, as an institution, the share of their direct and indirect costs but not at project level and/or not be able to distinguish the share between direct and indirect costs in a particular case.

If a non-commercial or non-profit organisation or international organisation is able to identify its resources involved in the project **and** to determine the **share** of direct and indirect costs for the project (ie able to quantify both), it has the choice between FCF and FC. If such an organisation is able to calculate all its direct costs in a project, but cannot calculate its indirect costs for the project, it has the choice between FCF and AC.

A non-commercial or non-profit organisation or international organisation that worked on AC in shared-cost projects under FP5, whose accounting system has not changed since then, should be able to use the AC model under FP6. However, it should be noted that although the basic principles of FP5 have been retained in FP6 there are a number of factors at play which mean that the cost models and their application are not a mirror image of what was applied under FP5. These include:

- change in the legal framework (new Financial Regulation of the Communities; new Framework Programme and new instruments; new definition of eligible costs);
- unlike FP5, all the cost reporting models are applied in all instruments (except for Marie Curie Actions and the user fee for access to infrastructure actions); whereas in FP5 there are two different definitions of additional cost depending of the type of action (shared costs actions = additional costs; thematic network = additional work)
- in most instruments even contractors working on FC or FCF get 100% funding for costs in certain activities such as management activities and training.

The following table summarises the access conditions to cost reporting models according to type of legal entity:

**Scheme 4 – Cost reporting models per type of legal entities**

Type of legal entity	Accounting capacity to distinguish direct and indirect costs	Cost reporting models		
		AC	FCF	FC
Physical persons	N.A. (*)	●		
Non-commercial or non-profit organisations established either under public law or private law and International organisations	No	●	● (**)	
	Yes		●	●
Small and medium enterprises	N.A. (*)		●	●
Other legal entities	N.A. (*)			●

(\*) N.A. : Not applicable

(\*\*) Only if the direct costs of the project can be calculated

**2.4.4- Use of a cost model**

- A legal entity shall apply a cost reporting model according to its type and according to its accounting capacity relative to direct and indirect eligible costs (fourth paragraph of Article II.22 of Annex II (General conditions) to the FP6 model contract):

*“Each contractor shall apply a cost reporting model in accordance with the principles established in Articles II.19 [eligible costs of the project], II.20 [direct costs], and II.21 [indirect costs]”.*

- As a general principle, a legal entity shall apply the same cost reporting model in all FP6 contracts in which it will be involved, whatever the type of instrument:

*“Where a legal entity may choose a cost reporting model it shall apply that model in all contracts established under the Sixth Framework Programme.”*

However, by derogation to this general principle (first and second indents<sup>104</sup> of Article II.22 of Annex II (General conditions) to the FP6 model contract):

- Any legal entity which is eligible to opt for the AC model in a first contract can change to the FCF or the FC model in a later contract. If it does so, it must then use the new cost reporting model in subsequent contracts ;

<sup>104</sup> FP6 model contract – Annex II – Article II.22 – Paragraph 4 – first and second sub-indent:

*“- By derogation to the principle established above, any legal entity eligible to opt for the AC cost model may opt in this contract for the FCF or the FC reporting model even if it has initially opted for the AC reporting model in previous contracts. However, if it does so, it must use that reporting model consistently in subsequent contracts established under the Sixth Framework Programme.*

*- By derogation to the principle established above, any legal entity eligible to opt for the FCF cost model may opt in this contract for the FC reporting model even if it has opted earlier for the FCF reporting model in previous contracts. However, if it does so, it must use that reporting model consistently in subsequent contracts established under the Sixth Framework Programme.”*

- any legal entity which is eligible to opt for the FCF model in a first contract can change to the FC model in a later contract. If it does so, it must then use the new cost reporting model in subsequent contracts.

For example:

- an SME may choose the FCF model in a first contract, and opt for the FC model in a later contract.
- a non-profit or non-commercial public or private organisation which has developed its accounting system in order to be able to distinguish the share of its direct costs from its indirect costs for the project may go to either the FCF or the FC model in a later contract, even though its first experience under an FP6 contract was with the AC model.

However, when a legal entity changes its cost reporting model, this change applies to its new contracts. There is one exception to this case for certain RTD performers in cooperative and collective research projects. They may if they can identify the direct costs, use FCF in those specific instruments even though they would normally use the AC model. Generally speaking, the contracts signed using the original cost reporting model will be completed with that cost reporting model.

Finally, modification of the legal status or nature of an entity may also lead to the modification of its cost model for subsequent contracts.

#### **2.4.5- The particular case of transnational access to infrastructures**

For **activities providing transnational access to infrastructures** (Article III.13 of Annex III (Specific conditions) for I<sup>3</sup> and CA and SSA for Infrastructures):

- **Two cost models** are available to the participants:

- **The User Fee (UF)**

In this model, eligible direct costs and a flat rate for indirect costs are charged by the contractor (Article III.13.2 of Annex III to the contract (see the definition below). The flat rate is a fixed contribution equal to 20% of all direct eligible costs minus the cost of sub-contracts. In this sense it has similarities with the FCF model.

It is characterised by the fact that the eligible direct costs are calculated as follows:

- ✓ The access provider may identify its **eligible direct costs**, related to the access provided to the users given access to the infrastructure, on the basis of a user fee (UF), according to the following formula:
 
$$\text{user fee} = \text{unit cost} \times \text{actual quantity of access delivered within the project}$$
- ✓ The unit cost, negotiated with the access provider, shall be defined on the basis of the average annual direct costs of providing access to the infrastructure, divided by the total annual quantity of access provided to the researchers normally having access to the infrastructure (excluding the user groups supported for access by the Community). These direct costs may cover also preparatory work and specific training courses for the users but shall exclude all contributions to the capital investments of the infrastructure. The unit cost is specified in Annex I (technical annex) to the contract and is to be used throughout the duration of the contract.

- ✓ Eligible direct costs may also include the travel and subsistence costs related to visits by users and to the user group selection panel, where necessary.
- ✓ To be eligible, these direct costs must be recorded in the accounts of the legal entity(ies), including the access provider, which contribute(s) resources to the project.
- ✓ When the infrastructure is composed of several research facilities with different access costs, a separate unit cost should be defined for each facility.

▪ **Additional Costs with flat rate for indirect costs (AC)**

In this model, eligible direct additional costs and a flat rate for indirect costs are charged by the contractor. The flat rate is a fixed contribution of 20% of all eligible direct additional costs minus the costs of sub-contracts.

This definition is the same as that established in Article II.22 of Annex II (General conditions) to the FP6 model contract.

**As a consequence, a participant involved in an activity aimed at providing transnational access and applying the user fee for access, and involved in at least one other activity of an I<sup>3</sup> or an SSA for Infrastructures, could potentially use two different cost models in the same indirect action.**

- The **access conditions to the cost models** are the following:
  - All **transnational access providers** may use the user fee cost reporting model (UF), provided they have an accounting system that allows their direct costs relating to the project to be identified<sup>105</sup>.
  - Any access providers using one of the full cost reporting models (FC or FCF) for the other activities of the project must use the user fee cost reporting model (UF) for activities aimed at providing transnational access<sup>106</sup>.
  - Access providers which may use the additional cost reporting model (AC) are:
    - ✓ non-commercial or non-profit organisations established either under public law or private law, or
    - ✓ international organisations,
 which do not have an accounting system that allows the share of their direct and indirect costs relating to the project to be distinguished<sup>107</sup>.
- By using in a first contract a cost reporting model for activities aimed at providing transnational access, an access provider shall apply that model for the same type of activities in all contracts established under the Sixth Framework Programme<sup>108</sup>.

The following table summarises the access conditions to cost reporting models per type of legal entity in an I3 or an SSA for Infrastructures that include a specific activity – providing transnational access:

<sup>105</sup> FP6 model contract – Annex III for I3 - Article III.12 – fourth paragraph (SSA Infrastructures – special clause 17).

<sup>106</sup> FP6 model contract – Annex III for I3 - Article III.12 – fifth paragraph (SSA Infrastructures – special clause 17).

<sup>107</sup> FP6 model contract – Annex III for I3 - Article III.12 – third paragraph (SSA Infrastructures – special clause 17).

<sup>108</sup> FP6 model contract – Annex III for I3 - Article III.12 – sixth paragraph (SSA Infrastructures – special clause 17).

### Scheme 5 – Cost reporting models per type of legal entities for an I<sup>3</sup> and an SSA for Infrastructures

Type of legal entities	Accounting capacity to distinguish direct and indirect costs	Cost reporting models for all activities except for transnational access			Cost reporting models for transnational access	
		AC	FCF	FC	AC	UF
Non-commercial or non-profit organisations established either under public law or private law and International organisations	No	●	● <sup>(***)</sup>		●	● <sup>(*)</sup>
	Yes		●	●		●
Small and medium enterprises	N.A. (**)		●	●		●
Other legal entities	N.A. (**)			●		●

(\*) Provided the contractor is able to justify its direct eligible costs relating to the project

(\*\*) N.A. : Not applicable

(\*\*\*) Only if the direct costs of the project can be calculated

#### 2.4.6- The limitation of actual indirect eligible costs in the FC model in CA and SSA instruments

For Coordination actions (CA) and Specific Support Actions (SSA), contractors using the full cost model (FC) may not claim their actual indirect costs.

In view of the principle of necessity of eligible costs to carry out the project, in these instruments a flat rate deemed to cover eligible indirect costs is applied for all contractors. This flat rate is a fixed contribution of 20% of direct eligible costs (for AC contractors, their direct additional eligible costs) minus direct eligible costs of sub-contracts (for AC contractors, direct additional eligible costs of sub-contracts). (Article II.25, second indent of Annex II (General conditions) to the FP6 model contract):

*“In those instruments where contractors using the FC cost model are limited to a claim of 20% of their direct costs as a contribution to overheads, this rate shall be based on all direct costs excluding the costs of subcontracts. For coordination actions and specific support actions indirect costs are reimbursed at 20% of direct costs (excluding the costs of subcontracts).”*

#### 2.4.7- The particular case of physical persons

Physical persons participating as contractors in the project use the AC model and may not charge any labour costs for their personal contribution to the project (Article II.22.3 of Annex II (General conditions) to the FP6 model contract).

*“Physical persons may not charge any labour cost in relation to their personal involvement in the project.”*

This is the rule applied to physical persons working as individuals on indirect actions. However, other factors relating to the use of the additional cost model should be taken

into account. For example, where the legal form of the contractor is a physical person but that person is engaged in commercial activities, with an accounting system and capable of identifying its direct and or indirect costs (as is the case for certain professions or for SMEs) then it should not use the AC model but either the FCF or FC model. The AC model is designed for certain kinds of public entities that cannot identify their direct costs and is to be used for physical persons participating as individuals in the project. However, where a physical person has an accounting system capable of identifying its costs (such as its employees etc.) then it should not use the AC model.

### **3- MECHANISMS OF THE FP6 COMMUNITY FINANCIAL CONTRIBUTION**

#### **3.1- CALCULATION OF THE COMMUNITY FINANCIAL CONTRIBUTION**

The calculation of Community financial contribution is based on different elements, especially for Grants for Integration or Grants to the Budget (indents (a) (b) and (c) of the first paragraph of Article 14 of the RP)<sup>109</sup>. Where the Community financial contribution is a lump sum grant, there is not usually a calculation based on costs, reimbursement rates or other aspects.

##### **3.1.1- Calculation of the Community financial contribution in a lump sum Grant**

Where the Community financial contribution is a lump sum (for some Specific Support Actions and some Actions to promote human resources and mobility), the Community financial contribution is not based on the estimated actual costs of carrying out the action.

As there is no specific mention of the amounts or methods to determine lump sum amounts in the basic acts<sup>110</sup>, article 181 of the IM must be applied. It stipulates that:

*“In addition to cases of scholarships and prizes, the basic act may authorise flat-rate financing for contributions of less than EUR 5 000 or the use of scales of unit costs. In order to ensure compliance with the principles of co-financing, no-profit and sound financial management, those flat-rate amounts and scales shall be reviewed at least every two years by the authorising officer responsible. The amounts shall be approved by the Commission.”*

According to the content and nature of the proposal, the Community financial contribution is negotiated between the consortium and the Commission, within the framework established by article 181 of the IM. In the case of many of the actions to promote human resources and mobility set rates have been established by the work programme for that part of the Specific Programme.

The negotiated amount of the Community financial contribution, as well as its form (“Lump sum”), is clearly indicated in article 5 of the core contract of the FP6 model contract.

The specific cases applicable to actions to promote human resources and mobility are indicated in Annex (6.B).

##### **3.1.2- Calculation of the Community financial contribution in a Grant for Integration**

###### **3.1.2.1- Principles**

In a Grant for Integration, the Community financial contribution is calculated taking into account:

- the **degree of integration** proposed by the consortium ;

<sup>109</sup> See 1.2.1, 1.2.2.2 and 1.2.2.3.

<sup>110</sup> Framework Programme, Specific Programme and Rules for Participation

- the **number of researchers** (and doctoral students) that all participants intend to integrate ;
- the **characteristics of the field of research** concerned;
- the **joint programme of activities**

During the evaluation of the proposals, only those proposals that reach a pre-determined threshold for the criterion that covers the “**degree of integration and the joint programme of activities**”<sup>111</sup> will be considered for selection. This threshold will be set at a high level to ensure that only networks with the potential to deliver the degree of integration required from a network of excellence will be selected.

The maximum Community financial contribution to a Network of excellence will be calculated as follows (first and fourth paragraphs of Article III.1 and first paragraph of Article III.2 of Annex III (Specific provisions) for Network of Excellence to the FP6 model contract):

- The grant for integration shall be calculated by multiplying the sum of the average annual grant calculated in respect of the **number of researchers**<sup>112</sup> & <sup>113</sup> and of any annual bonus calculated according to the **number of doctoral students**<sup>114</sup> & <sup>115</sup> **intended to be integrated**, by the duration of the project<sup>116</sup>.
- The table below converts the number of researchers into an annual average grant to the project in respect of these researchers<sup>117</sup>:

Number of researchers	Annual average grant (*)
50	1.000.000 €
100	2.000.000 €
150	3.000.000 €
250	4.000.000 €
500	5.000.000 €
1000 and above	6.000.000 €

(\*): The grant for an intermediate number of researchers would be calculated by linear interpolation.

<sup>111</sup> See Section 4.2 of the Background document for NoE mentioned in footnote n°38.

<sup>112</sup> FP6 model contract – Annex III for NoE – Article III.1 – fourth paragraph:

*“Researchers: means research staff with at least four years of research experience or those in possession of a doctoral degree. Additionally, a researcher must either be an employee of one of the contractors or be working under its direct management authority in the frame of a formal agreement between the contractor and that researcher’s employer.”*

<sup>113</sup> FP6 model contract – Annex III for NoE – Article III.1 – fourth paragraph:

*“Number of researchers: means the headcount of those researchers that both (a) are identifiable by name at the time of the deadline for the submission to the Commission of the original proposal for this network of excellence and (b) constitute the research capacities of the contractors within the frame of the then proposed network of excellence.”*

<sup>114</sup> FP6 model contract – Annex III for NoE – Article III.1 – first paragraph:

*“Doctoral students: means students who are enrolled on a recognised course of doctoral studies run by one of the contractors and who do not meet the conditions to be considered as a researcher.”*

<sup>115</sup> FP6 model contract – Annex III for NoE – Article III.1 – first paragraph:

*“Number of doctoral students: means the headcount of those doctoral students that are both (a) identifiable by name at the time of the deadline for the submission to the Commission of the original proposal for this network of excellence and (b) engaged on research activities within the frame of then proposed network of excellence.”*

<sup>116</sup> FP6 model contract – Annex III for NoE – Article III.2 – first paragraph – fourth subparagraph:

*“The grant for integration shall be calculated by multiplying the average annual grant in respect of researchers, and any bonus for doctoral students, by the duration of the project.”*

<sup>117</sup> FP6 model contract – Annex III for NoE – Article III.2 – first paragraph – second subparagraph.

- The bonus for doctoral students is equivalent to € 4,000/year multiplied by the number of doctoral students, up to a maximum of 10 % of the grant in respect of the number of researchers<sup>118</sup>.
- Researchers and doctoral students of a contractor from a third country shall be included in the calculation of the number of researchers and number of doctoral students only when the contractor is to receive a Community financial contribution<sup>119</sup>.

Researchers and doctoral students of a contractor established in third countries other than those targeted by the specific activities for international cooperation (Mediterranean countries; Russia and New Independent States; Countries of the Balkans and Developing countries) can only be included in the calculation of the number of researchers and number of doctoral students if it is mentioned in the relevant call for proposal and/or in the relevant work programme that legal entities established in those countries are eligible to receive Community financial contribution<sup>120</sup>.

Countries that are not eligible to receive Community Financial contribution except in exceptional cases are: Japan, United States of America, Canada, Australia, New-Zealand, ....<sup>121</sup>

- The consortium, when taking into account aspects such as the characteristics of the field of research concerned, may request a lower grant for integration than that which would have resulted from applying the method described above. In such cases the lower amount shall be the maximum financial contribution of the Community as identified in the technical annex (Annex I)<sup>122</sup> to the contract and is reflected in the core contract.
- During negotiation with the Commission, factors such as the scope of the network, composition of the consortium, the joint programme of activities and the degree of integration expected will be taken into consideration in determining the number of researchers to be integrated and the duration of the grant.

### **3.1.2.2- Examples**

Three different examples (with three levels of complexity : low (n°1), medium n°2) and high (n°3)) of the calculation of the Community financial contribution for a Network of Excellence are provided here below.

<sup>118</sup> FP6 model contract – Annex III for NoE – Article III.2 – first paragraph – third subparagraph.

<sup>119</sup> FP6 model contract – Annex III for NoE – Article III.2 – first paragraph – fifth subparagraph.

<sup>120</sup> It may also be mentioned that, in compliance with the third indent of the first paragraph of article 6 of the RP, *“any legal entity established in a third country other than a country covered by the second subparagraph [third countries targeted by the specific activities for international cooperation] and taking part in the RTD activities referred to in the first subparagraph [“Focussing and Integrating Community Research”], may receive a Community financial contribution if provision is made for this purpose under an RTD activity or if it is essential for carrying out the indirect action [Commission ad-hoc decision].”*

<sup>121</sup> For a complete list, consult the list and maps of countries provided by the programme in charge of specific international cooperation activities:

<http://europa.eu.int/comm/research/iscp/countries.html>

<sup>122</sup> FP6 model contract – Annex III for NoE – Article III.2 – first paragraph – sixth subparagraph.

## 3.1.2.2.1- Example 1 (level of complexity: low)

- Hypothesis

7 independent legal entities, respectively established in Germany (DE), Poland (PL), United Kingdom (UK), Russia (RU), Israel (IL), France (FR) and Netherlands (NL), intend to integrate in a Network of Excellence:

- 150 researchers
- 40 doctoral students

The distribution of the number of researchers and of doctoral students is the following one:

Participant n°	Organisation short name	Number of researchers to be integrated			Number of registered doctoral students in the network		
		Female	Male	Total	Female	Male	Total
1	DE Legal entity	5	8	13			0
2	PL Legal entity	10	4	14	7	12	19
3	UK Legal entity	8	22	30			0
4	RU Legal entity	11	18	29	5	4	9
5	IL Legal entity	6	12	18			0
6	FR Legal entity	8	14	22	2	3	5
7	NL Legal entity	15	9	24	5	2	7
8				0			0
9				0			0
10				0			0
<b>Total or Subtotal 1</b>		<b>63</b>	<b>87</b>	<b>150</b>	<b>19</b>	<b>21</b>	<b>40</b>

The duration of the project is 60 months (5 years).

- Calculation of the grant

- The full number of researchers (150) and number of doctoral students (40) can be taken into consideration for the calculation of the grant (fifth subparagraph of the first paragraph of Article III.2 of Annex III (Specific provisions) for the Network of Excellence to the FP6 model contract).

The consortium is composed of:

- ✓ 4 independent legal entities established in four different Members States (DE, UK, FR, NL) ;
- ✓ 1 independent legal entity established in an Associated Candidate Country (PL) ;
- ✓ 1 independent legal entity established in an Associated Country (IL) ;
- ✓ 1 independent legal entity established in a Third Country targeted by the specific activities of international co-operation (RU) ;

All those legal entities are able to receive a Community financial contribution (according to the second paragraph of Article 4<sup>123</sup> and the second subparagraph of the first paragraph of Article 6<sup>124</sup> of the RP and the content of the relevant work programme).

<sup>123</sup> RP: Article 4 – second paragraph:

“2. Any legal entity established in an associated State may participate in indirect actions on the same footing and shall have the same rights and obligations as a legal entity established in a Member State, subject to Article 5.”

<sup>124</sup> RP: Article 6 – first paragraph – second subparagraph:

“Any legal entity established in a third country targeted by the specific international cooperation activities provided under the heading ‘Focussing and Integrating Community Research’ of the Sixth Framework Programme may receive a Community financial contribution within the limits of the budget allocated in Annex II to the Sixth Framework Programme for the action referred to in Article 164(b) of the Treaty.”

- As a consequence:
  - ✓ According to the table, the average annual grant for the number of researchers to be integrated is:  
**€ 3.000.000.**
  - ✓ The average annual grant for the number of doctoral students, based on a annual bonus of € 4.000/year/doctoral student is equal to:  
40 doctoral students x € 4.000 = **€ 160.000.**  
This amount is **less than 10%** of the average annual grant for the number of researchers (10% x € 3.000.000 = € 300.000) and can be accepted.
- Since the duration of the project is 5 years, the maximum amount of the Grant for Integration is:  
(€ 3.000.000 + € 160.000) x 5 = **€ 15.800.000.**
- Taking into account aspects such as the characteristics of the field of research concerned, the consortium decides to request the maximum Community financial contribution: **€ 15.800.000** with the following distribution of the grant per period:

Periods		Requested Grant for Integration	
N°	Month m - Month m'		
Period 1	M1 - M12	3.160.000	4.740.000
Period 2 - first half	M13 - M18	1.580.000	
Period 2 - second half	M19 - M24	1.580.000	3.160.000
Period 3 - first half	M25 - M30	1.580.000	
Period 3 - second half	M31 - M36	1.580.000	3.160.000
Period 4 - first half	M37 - M42	1.580.000	
Period 4 - second half	M43 - M48	1.580.000	3.160.000
Period 5 - first half	M49 - M54	1.580.000	
Period 5 - second half	M55 - M60	1.580.000	1.580.000
<b>Total Requested Grant for Integration</b>		<b>15.800.000</b>	<b>15.800.000</b>

There is no obligation for linear distribution. The annual distribution of the grant over the duration of the project is a result of the negotiation phase and based on expected costs and activities in each period.

This maximum amount of the Community financial contribution is identified in the second paragraph of Article 5 of the core contract of the FP6 model contract. The form of the grant (“Grant for integration”) is mentioned in the first paragraph of this article 5.

- The following table summaries the above mentioned elements:

Requested Grant for Integration (in €) (1)			
Proposed Average annual Grant for N researchers to be integrated (a)	3.000.000	Proposed Average annual Grant for N' registered doctoral students	160.000
<i>Not exceeding 10% of the proposed average annual grant for the researchers, the proposed average annual grant for registered doctoral students must not be adapted. As a consequence the average annual grants are confirmed.</i>			
Average annual Grant for N researchers to be integrated (a)	3.000.000	Average annual Grant for N' registered doctoral students (b)	160.000
Duration of the project (in years) (c)	5	Grant for Integration [(a)+(b)]x(c)	15.800.000
Requested Grant for Integration		15.800.000	

- Similar tables are part of the Annex I (technical Annex) to the contract.  
An example of the table(s) is provided in Annex (6.2) to these guidelines.

## 3.1.2.2.2- Example 2 (level of complexity: medium)

- Hypothesis

7 independent legal entities, respectively established in Germany (DE), Poland (PL), United Kingdom (UK), Russia (RU), Israel (IL), France (FR) and Netherlands (NL), intend to integrate in a Network of Excellence:

- 75 researchers
- 40 doctoral students

The distribution of the number of researchers and of doctoral students is the following one:

Participant n°	Organisation short name	Number of researchers to be integrated			Number of registered doctoral students in the network		
		Female	Male	Total	Female	Male	Total
1	DE Legal entity	5	4	9	2	2	4
2	PL Legal entity	1	4	5	1	1	2
3	UK Legal entity	8	8	16	7	5	12
4	RU Legal entity	7	7	14	5	4	9
5	IL Legal entity	5	6	11	2	1	3
6	FR Legal entity	6	5	11	2	3	5
7	NL Legal entity	4	5	9	4	1	5
8				0			0
9				0			0
10				0			0
<b>Total or Subtotal 1</b>		<b>36</b>	<b>39</b>	<b>75</b>	<b>23</b>	<b>17</b>	<b>40</b>

The duration of the project is 60 months (5 years).

- Calculation of the grant

- The full number of researchers (75) and number of doctoral students (40) can be taken into consideration for the calculation of the grant (fifth subparagraph of the first paragraph of Article III.2 of the Annex III (Specific provisions) for the Network of Excellence to the FP6 model contract).

The consortium is composed of:

- ✓ 4 independent legal entities established in four different Members States (DE, UK, FR, NL) ;
- ✓ 1 independent legal entity established in an Associated Candidate Country (PL) ;
- ✓ 1 independent legal entity established in an Associated Country (IL) ;
- ✓ 1 independent legal entity established in an Third Country targeted by the specific activities of international co-operation (RU) ;

All those legal entities are able to receive a Community financial contribution (second paragraph of Article 4 and the second subparagraph of the first paragraph of Article 6 of the RP and the content of the relevant work programme).

- Therefore:
  - ✓ According to the table, the average annual grant for the number of researchers to be integrated is equal to  $[GA+(GB-GA)/(B-A)*(N-A)]$  with:
    - A – nearest lower given number;
    - B – nearest upper given number
    - GA – given grant for A researchers

GB – given grant for B researchers

$$[\text{€ } 1.000.000 + (2.000.000 - 1.000.000)/(100-50)*(75-50)] = \text{€ } 1.500.000$$

- ✓ The average annual grant for the number of doctoral students, based on an annual bonus of € 4.000/year/doctoral student is equal to:

$$40 \text{ doctoral students} \times \text{€ } 4.000 = \text{€ } 160.000.$$

However, this amount is **superior to 10%** of the average annual grant for the number of researchers (10% x 1.500.000€ = 150.000€). Therefore, only a maximum of € **150.000** is allowed in order to respect the ceiling of 10%.

- Since the duration of the project is 5 years, the maximum Grant for Integration, is:

$$(\text{€ } 1.500.000 + \text{€ } 150.000) \times 5 = \text{€ } 8.250.000.$$

- Taking into account aspects such as the characteristics of the field of research concerned, the consortium decides to request as the maximum Community financial contribution: € **8.250.000** with the following distribution of the grant per period:

Periods		Requested Grant for Integration	
N°	Month m - Month m'		
Period 1	M1 - M12	1.650.000	2.475.000
Period 2 - first half	M13 - M18	825.000	
Period 2 - second half	M19 - M24	825.000	1.650.000
Period 3 - first half	M25 - M30	825.000	
Period 3 - second half	M31 - M36	825.000	1.650.000
Period 4 - first half	M37 - M42	825.000	
Period 4 - second half	M43 - M48	825.000	1.650.000
Period 5 - first half	M49 - M54	825.000	
Period 5 - second half	M55 - M60	825.000	825.000
<b>Total Requested Grant for Integration</b>		<b>8.250.000</b>	<b>8.250.000</b>

There is no obligation for linear distribution. The annual distribution of the grant over the duration of the project is a result of the negotiation phase.

This amount is set in the second paragraph of Article 5 of the core contract of the FP6 model contract. The form of the grant (“Grant for integration”) is mentioned in the first paragraph of Article 5.

- The following table summaries the above mentioned elements:

Requested Grant for Integration (in €) (1)			
Proposed Average annual Grant for N researchers to be integrated (a)	1.500.000	Proposed Average annual Grant for N' registered doctoral students	160.000
<i>Exceeding 10% of the proposed average annual grant for the researchers, the proposed average annual grant for registered doctoral students must be adapted. As a consequence the average annual grants are the following:</i>			
Average annual Grant for N researchers to be integrated (a)	1.500.000	Average annual Grant for N' registered doctoral students (b)	150.000
Duration of the project (in years) (c)	5	Grant for Integration [(a)+(b)]x(c)	8.250.000
<b>Requested Grant for Integration</b>		<b>8.250.000</b>	

- Similar tables are part of the Annex I (technical Annex) to the contract.

An example of the table(s) is provided in Annex (6.2) to these guidelines.

## 3.1.2.2.3- Example 3 (level of complexity: high)

- Hypothesis

8 independent legal entities, respectively established in Germany (DE), Poland (PL), United Kingdom (UK), Russia (RU), Israel (IL), France (FR), Netherlands (NL) and United States of America (US), intend to integrate in a Network of Excellence:

- 175 researchers
- 90 doctoral students

The distribution of the number of researchers and of doctoral students is the following one:

Participant n°	Organisation short name	Number of researchers to be integrated			Number of registered doctoral students in the network		
		Female	Male	Total	Female	Male	Total
1	DE Legal entity	15	21	36	6	8	14
2	PL Legal entity	2	5	7	1	2	3
3	UK Legal entity	12	15	27	7	8	15
4	RU Legal entity	5	7	12	5	4	9
5	IL Legal entity	7	4	11	2	1	3
6	FR Legal entity	17	28	45	12	15	27
7	NL Legal entity	3	12	15	2	5	7
8	US Legal entity	10	12	22	5	7	12
9				0			0
10				0			0
<b>Total or Subtotal 1</b>		<b>71</b>	<b>104</b>	<b>175</b>	<b>40</b>	<b>50</b>	<b>90</b>

The duration of the project is 60 months (5 years).

- Calculation of the grant

- Only a part of the full number of researchers (175) and number of doctoral students (90) can be taken into consideration for the calculation of the grant (fifth subparagraph of the first paragraph of Article III.2 of the Annex III (Specific provisions) for the Network of Excellence to the FP6 model contract).

The consortium is composed of:

- ✓ 4 independent legal entities established in four different Members States (DE, UK, FR, NL) ;
- ✓ 1 independent legal entity established in an Associated Candidate Country (PL) ;
- ✓ 1 independent legal entity established in an Associated Country (IL) ;
- ✓ 1 independent legal entity established in a Third Country targeted by the specific activities of international co-operation (RU) ;
- ✓ 1 independent legal entity established in a Third Country which is not targeted by the specific activities of international co-operation (US) ;

The number of researchers and doctoral students of the US legal entity can not be taken into consideration for the calculation of the grant (second paragraph of Article 4, second subparagraph of the first paragraph of Article 6, third subparagraph of the first paragraph of Article 6<sup>125</sup> of the RP, the content of the relevant work programme and call for proposals and the fifth subparagraph of the first paragraph of Article III.2 of the Annex III (Specific provisions) for the Network of Excellence to

<sup>125</sup> RP: Article 6 – first paragraph – third subparagraph:

*“Any legal entity established in a third country other than a country covered by the second subparagraph, and taking part in the RTD activities referred to in the first subparagraph, may receive a Community financial contribution if provision is made for this purpose under an RTD activity or if it is essential for carrying out the indirect action.”*

the FP6 model contract)<sup>126</sup>. Legal entities established in United States of America are not normally eligible to receive a Community financial contribution (except in very exceptional and duly justified cases).

- As a consequence:
  - ✓ The number of researchers and doctoral students must be reduced to:
    - ❖  $175 - 22 = 153$  researchers
    - ❖  $90 - 12 = 78$  doctoral students

Even though there will be integration of the US researchers and doctoral students, they cannot be used to determine the final headcount for the grant for integration.

Therefore the distribution of the number of researchers and of doctoral students becomes the following one:

Participant n°	Organisation short name	Number of researchers to be integrated			Number of registered doctoral students in the network		
		Female	Male	Total	Female	Male	Total
1	DE Legal entity	15	21	36	6	8	14
2	PL Legal entity	2	5	7	1	2	3
3	UK Legal entity	12	15	27	7	8	15
4	RU Legal entity	5	7	12	5	4	9
5	IL Legal entity	7	4	11	2	1	3
6	FR Legal entity	17	28	45	12	15	27
7	NL Legal entity	3	12	15	2	5	7
8	US Legal entity	10	12	22	5	7	12
9				0			0
10				0			0
<b>Total or Subtotal 1</b>		<b>71</b>	<b>104</b>	<b>175</b>	<b>40</b>	<b>50</b>	<b>90</b>
<b>Non eligible head counts</b>		<b>10</b>	<b>12</b>	<b>22</b>	<b>5</b>	<b>7</b>	<b>12</b>
<b>New Total or Subtotal 1</b>		<b>61</b>	<b>92</b>	<b>153</b>	<b>35</b>	<b>43</b>	<b>78</b>

- ✓ According to the table, the average annual grant for the number of researchers to be integrated is equal to  $[GA + (GB - GA) / (B - A) * (N - A)]$  with:

A – nearest lower given number;

B – nearest upper given number

GA – given grant for A researchers

GB – given grant for B researchers

$$[\text{€ } 3.000.000 + (\text{€ } 4.000.000 - \text{€ } 3.000.000) / (250 - 150) * (153 - 150)] = \text{€ } 3.030.000$$

- ✓ The average annual grant for the number of doctoral students, based on a annual bonus of €4.000/year/doctoral student is equal to:

$$78 \text{ doctoral students} \times \text{€ } 4.000 = \text{€ } 312.000.$$

However, this amount is **superior to 10%** of the average annual grant for the number of researchers ( $10\% \times \text{€ } 3.030.000 = \text{€ } 303.000$ ). This amount must be reduced to **€ 303.000** in order to respect the ceiling of 10%.

- As the duration of the project is 5 years, the Grant for Integration, is:
 
$$(\text{€ } 3.030.000 + \text{€ } 303.000) \times 5 = \text{€ } 16.665.000.$$
- Taking into account aspects such as the characteristics of the field of research concerned, the consortium decides to request a maximum

<sup>126</sup> See footnote n°119.

Community financial contribution of: € 12.500.000 with the following distribution of the grant per period:

<i>Periods</i>		<i>Requested Grant for Integration</i>	
<i>N°</i>	<i>Month m - Month m'</i>		
Period 1	M1 - M12	2.500.000	3.750.000
Period 2 - first half	M13 - M18	1.250.000	
Period 2 - second half	M19 - M24	1.250.000	2.500.000
Period 3 - first half	M25 - M30	1.250.000	
Period 3 - second half	M31 - M36	1.250.000	2.500.000
Period 4 - first half	M37 - M42	1.250.000	
Period 4 - second half	M43 - M48	1.250.000	2.500.000
Period 5 - first half	M49 - M54	1.250.000	
Period 5 - second half	M55 - M60	1.250.000	1.250.000
<b>Total Requested Grant for Integration</b>		<b>12.500.000</b>	<b>12.500.000</b>

There is no obligation for linear distribution. The annual distribution of the grant over the duration of the project is a result of the negotiation phase.

This amount is identified in the second paragraph of Article 5 of the core contract of the FP6 model contract. The form of the grant (“Grant for integration”) is mentioned in the first paragraph of this Article 5.

- The following table summaries the above mentioned elements:

<b>Requested Grant for Integration (in €) (1)</b>			
Proposed Average annual Grant for N researchers to be integrated (a)	3.030.000	Proposed Average annual Grant for N' registered doctoral students	312.000
<i>Exceeding 10% of the proposed average annual grant for the researchers, the proposed average annual grant for registered doctoral students must be adapted. As a consequence the average annual grants are the following:</i>			
Average annual Grant for N researchers to be integrated (a)	3.030.000	Average annual Grant for N' registered doctoral students (b)	303.000
Duration of the project (in years) (c)	5	Grant for Integration [(a)+(b)]x(c)	16.665.000
<b>Requested Grant for Integration</b>		<b>12.500.000</b>	

- Similar tables are part of the Annex I (technical Annex) to the contract.

An example of the table(s) is provided in Annex (6.2) to these guidelines.

### **3.1.3- Calculation of the Community financial contribution in a Grant to the Budget**

#### **3.1.3.1- General Principles**

When it is in the form of a grant to the budget, the Community financial contribution is calculated according to (indent (c) of the first paragraph<sup>127</sup> and indent (d) of the first subparagraph of the second paragraph<sup>128</sup> of Article 14 of the RP):

- a **provisional budget of estimated eligible costs and receipts broken-down per type of activity and per participant** ;
- the **type of cost model used by the participants** ;

<sup>127</sup> See 1.2.2.3.

<sup>128</sup> See footnote n°64.

- the **maximum reimbursement rates of eligible costs per type of activity and cost model according to the instrument concerned**;
- **And within the limits of public funding established for research and technological or innovation activities and demonstration activities by the Community framework for State aid for research and development** ;

In addition to the concepts of **eligible costs** (including the notions of direct and indirect eligible costs), **type of activities** and **cost models** already defined in Part 2, the calculation of the Community financial contribution in a Grant to the Budget integrates three other concepts that need to be clearly defined in order to be correctly taken into account by the participants:

- the maximum **reimbursement rates of eligible costs** ;
- the notion of **receipts** ;
- the **Community framework for State aid for research and development**.

### 3.1.3.2- The maximum reimbursement rates of eligible costs

For Grants to the Budget (table of Section 2 of Annex III to the FP6 – EC), the Community financial contribution is calculated according to the **maximum reimbursement rates of estimated eligible costs per type of cost model used by the participants and per type of activities**.

#### 3.1.3.2.1- Maximum reimbursement rates of eligible costs per type of cost model and activity

The type of cost model, the type of activity and the type of instrument determine the **maximum reimbursement rates of eligible costs**:

- For contractors using the **AC** model: **100%** of their additional costs<sup>129</sup> whatever those activities might be.
- For contractors using the **FC** or **FCF** models:
  - for **research and technological development or innovation activities**: **50%** of eligible costs;
  - for **demonstration activities** : **35%** of eligible costs ;
  - for **training activities** : **100%** of eligible costs ;
  - for **management of the consortium activities** : **100%** of eligible costs under certain conditions (see 2.3.4) ;
  - for **other specific activities** : **100%** of eligible costs.

Annex (6.3) provides a table of the maximum reimbursement rates of eligible costs per type of cost model and activity.

<sup>129</sup> The exception is for management activities which may include the costs of permanent personnel if they can be calculated and proven to be real.

### 3.1.3.2.2- The reasons for a maximum

The reimbursement rate is a possible maximum rate because:

- the **receipts** of the project **must be taken into consideration** in determining the total amount of the Community financial contribution.
- the **limits of public funding established by international regulations and in particular by the Community framework for State aid for research and development**<sup>130</sup> **for certain activities and legal entities must also be taken into account** in determining the total amount of the Community financial contribution.

### 3.1.3.3- The notion of receipts

When it is a grant to reimburse eligible costs, the **Community financial contribution may not have the purpose or effect of producing a profit for the beneficiaries (the participants)** (the second paragraph of Article 109 of the FR<sup>131</sup>, in indent (a) of the first paragraph of Article 165 of the IM<sup>132</sup>, and as recalled in the fifth paragraph of Section 2 of Annex III to the Framework Programme Decision for FP6-EC<sup>133</sup> and in footnote (1) of the table of this Section 2<sup>134</sup>, as well as in indent (d) of the first subparagraph of the second paragraph of Article 14 of the RP<sup>135</sup>).

The notion of **profit** is defined as “**the surplus of receipts over the costs of the action in question (...)**”.

As a consequence, since the Community financial contribution for a Grant to the Budget is calculated, among other criteria, on the basis of a provisional budget and according to maximum reimbursement rates of eligible costs, this provisional budget must be composed of estimated eligible costs as well as of **estimated receipts**, (if they can be estimated in advance.).

#### 3.1.3.3.1- Type of receipts<sup>136</sup>

**Three kinds of receipts** must be taken into account (Article II.23 of Annex II (General conditions) to the FP6 model contract):

- **Financial transfers** or their equivalent to the contractor from third parties<sup>137</sup> ;

<sup>130</sup> [OJ N° C 45, 17.02.96, p. 5]

([http://europa.eu.int/comm/competition/state\\_aid/legislation/96c46\\_en.html](http://europa.eu.int/comm/competition/state_aid/legislation/96c46_en.html))

<sup>131</sup> See footnote n°46.

<sup>132</sup> See footnote n°49.

<sup>133</sup> See footnote n°51.

<sup>134</sup> See footnote n°52.

<sup>135</sup> See footnote n°64.

<sup>136</sup> **NB: new to FP6.**

<sup>137</sup> FP6 model contract – Annex II – Article II.23 – indent (a):

“Where there is a financial transfer from third parties :

- *made specifically to co-finance the project or specifically to finance a resource used by the contractor on the project, such transfers shall be considered as receipts of the project;*

- **Contributions in kind** from third parties<sup>138</sup>;
- **Income** generated by the project<sup>139</sup>.

In the first two cases (financial transfers or contributions in kind), these endowments are considered as receipts of the project if the third party has provided them specifically to be used in the project.

If, on the other hand, these endowments are at the discretion of the contractor they need not be considered as receipts<sup>140</sup>.

In the last case of receipts (income generated by the project itself):

- any income generated by the project itself, including the sale of assets bought for the project (limited to the initial cost of purchase) are considered as income to the project (eg: admission fee to a conference carried out by the consortium; sale of the proceedings of the aforementioned conference ; sale of an equipment bought for the project ; ...);
- by derogation to the above mentioned principle, income generated in using the knowledge resulting from the project is not considered as a receipt. The use of the knowledge resulting from the project is often the main objective of any project supported by an FP6 Community financial contribution.

It should be noted that interest generated by the pre-financing recovered and held by the coordinator must also be taken into account.

### 3.1.3.3.2- Implementation modalities per type of cost model

- Participants using a full cost model (**FC** or **FCF**) must declare all their **eligible costs** and all types of **receipts**.
- Participants using the additional cost model (**AC**):
  - **May only charge their additional direct eligible costs that are not covered by any other contribution** (financial contributions or contributions in kind) **by third parties**<sup>141</sup> ;

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• *where the use of the financing or the use of resources paid with the financial transfers are at the management discretion of the contractor and the contractor chooses to allocate that resource to the project, such transfers shall not be considered to be receipts of the project.”*

<sup>138</sup> FP6 model contract – Annex II – Article II.23 – indent (b):

*“Contributions in kind from third parties that are used for the project constitute an eligible cost of the project, and:*

- *shall also be considered a receipt of the project if they have been contributed by the third party specifically to be used on the project;*
- *shall not be considered a receipt of the project if their use is at the management discretion of the contractor.”*

<sup>139</sup> FP6 model contract – Annex II – Article II.23 – indent (c):

*“Income generated by the project:*

- *income generated by actions undertaken in carrying out the project and income from the sale of assets purchased under the contract up to the value of the cost initially charged to the project shall be considered as a receipt of the project;*
- *income generated for the contractor from the use of knowledge resulting from the project shall not be considered as a receipt of the project.”*

<sup>140</sup> It must be noted that, as established by Article II.23, where contributions from third parties are used for the project by the contractor, the latter is required to inform the third party of this use and in accordance with the national legislation or practice in force:

*“Contractors shall ensure that third parties whose resources are made available to the project are informed of this use of their resources. Contractors shall do so in accordance with their national legislation and practices.”*

- Must declare their **income** generated by the project itself.

**As a consequence, if at the level of the proposal or at the level of the negotiation, a participant is sure that it will be the beneficiary of receipts, it must declare them in advance in order to assess with as much accuracy as possible the financial commitment for the project by the Commission, and to avoid the commitment of funds that cannot be disbursed.**

### 3.1.3.3.3- Impact on maximum reimbursement rates of eligible costs

**Taking into account the notion of receipts, the maximum reimbursement rates of eligible costs must be understood as limited by the difference between the eligible costs and the receipts.**

As a consequence, the maximum Community financial contribution is equal to:

- For contractors involved in activities covered up to a maximum of 100%:  
**The difference between eligible costs and receipts**
- For contractors using the FCF or the FC model involved in research and technological development or innovation activities  
**A maximum of 50% of their eligible costs, within the limit of the difference between their eligible costs and receipts.**
- For contractors using the FCF or the FC model involved in demonstration activities  
**A maximum of 35% of their eligible costs, within the limit of the difference between their eligible costs and receipts.**
- For contractors involved in specific activities relating to connectivity services  
**A maximum of 50% of their eligible costs, within the limit of the difference between their eligible costs and receipts.**

#### **Example N° 1:**

- A contractor using the FC model declares an amount of eligible costs of:
  - €500.000 for research and technological development or innovation activities
  - €100.000 for demonstration activities
 It declares also an amount of receipts equal to:
  - €150.000 for research and technological development or innovation activities
  - €110.000 for demonstration activities
- Therefore the Community financial contribution to its eligible costs is equal to:
 

a. Total eligible costs	€600.000
b. Research and technological development or innovation activities:	
500.000 x 50%	€250.000
c. Demonstration activities:	
100.000 x 35%	<u>35.000</u>
d. Less maximum allowable community contribution	<u>285.000</u>

<sup>141</sup> FP6 model contract – Annex II – Article II.20 – second paragraph – second sentence:  
*“Any such direct additional costs specifically covered by contributions from third parties are excluded.”*

e. Balance not funded by community		315.000
f. Less total receipts		<u>260.000</u>
g. Balance		€ 55.000
h. Total community contribution	€285.000	

- So long as the balance in line g. is greater than or equal to 0, the maximum community contribution can be paid. Note that it does not matter that the receipts for demonstration activities exceed the costs related to demonstration activities, so long as the contractor is not making an overall profit.

### Example N° 2:

- A contractor using the FC model declares an amount of eligible costs of:
  - €500.000 for research and technological development or innovation activities
  - €100.000 for demonstration activities

It declares also an amount of receipts equal to:

- €220.000 for research and technological development or innovation activities
- €110.000 for demonstration activities

- Therefore the Community financial contribution to its eligible costs is equal to:
 

a. Total eligible costs		€600.000
b. Research and technological development or innovation activities:		
	500.000 x 50%	€250.000
c. Demonstration activities:		
	100.000 x 35%	<u>35.000</u>
d. Less maximum allowable community contribution		<u>285.000</u>
e. Balance not funded by community		315.000
f. Less total receipts		<u>330.000</u>
g. Balance		€ -15.000
h. Total community contribution	€270.000	

- If the balance in line g. is less than 0, the maximum community contribution is reduced by the same amount, to avoid the contractor making a profit.

#### 3.1.3.3.4- Simultaneous funding from different origins (including other EC programmes)

For some participants only a part of the eligible costs are covered by the Community financial contribution (maximum reimbursement rates of eligible costs<sup>142</sup>). The remaining eligible costs can be covered:

- either by the participant's own financial resources;
- or by receipts coming from third parties

Receipts can be either of public or private origin.

An FP6 indirect action may be the object of additional financial contribution from other EC programmes, under certain conditions (as established in the second, third and fourth paragraphs of Section 2 of Annex III to the Framework Programme Decision for FP6-EC):

*“In the case of participation of bodies from regions lagging in development, when a project receives the maximum intensity of co-financing authorised under*

<sup>142</sup> See 3.1.3.2.

*this Programme or an overall grant, an additional contribution from the Structural Funds, pursuant to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds [OJ L 161, 26.6.1999, p. 1.], could be granted.*

*In the case of participation of entities from the candidate countries, an additional contribution from the pre-accession financial instruments could be granted under similar conditions.*

*In the case of participation of organisations from Mediterranean or developing countries, a contribution of the MEDA programme and of the financial instruments of the Community's aid to development could be envisaged.”*

However, it must also be noted that for some participants there are limits of public funding for some type of activities (as established by the first paragraph of Section 2 of Annex III to the Framework Programme Decision for FP6-EC). These limits are governed by the Community framework for State aid for Research and Development.

### **3.1.3.4- The Community framework for State aid for research and development**

One form of receipts is a public receipt, that is a financial contribution or contribution in kind from a public source.

The first paragraph of the Section 2 of the Annex III to the FP6 indicates that:

*The Community will implement the financial instruments in compliance with the Community framework for state aid to research and development, as well as international rules in this area, and in particular the WTO Agreement on Subsidies and Countervailing Measures. In compliance with this international framework, it will need to be possible to adjust the scale and form of financial participation under this programme on a case by case basis, in particular if funding from other public sector sources is available, including other sources of Community financing such as the EIB and EIF.*

#### **3.1.3.4.1- The purpose of the Community framework for State aid for research and development**

The Community framework for State aid for research and development establishes that:

- within an "industrial research action" (called “**research and technological development or innovation activities**” in FP6), **the intensity of State aid, combined with Community support, cannot exceed 75% of the eligible costs of the action.**
- within an "pre-competitive development activity" (called “**demonstration activities**” in FP6), **the intensity of State aid, combined with Community support, cannot exceed 50% of the eligible costs of the action.**

The Vademecum of "Community Rules on State aid"<sup>143</sup> specifies that:

*"Is not considered to constitute State Aid: Public financing of R&D activities by*

<sup>143</sup> Vademecum “Community Rules on States aid”, page 17  
[http://europa.eu.int/comm/competition/state\\_aid/others/vademecum/vademecum\\_en.pdf](http://europa.eu.int/comm/competition/state_aid/others/vademecum/vademecum_en.pdf)

*higher non-profit making public education or research Establishments ”.*

For entities other than non-profit-making higher education or research establishments, the Community framework for State aid for Research and Development establishes the following maximum public support (including Community support):

- Standard rates<sup>144</sup>:
  - Research and technological development or innovation activities: **50%**
  - Demonstration activities: **25%**
- Possible increases of standard rates :
  - Legal entities meeting the definition of an SME: + **10%**
  - Legal entities established in a region covered by the article 87.3 (a) of the Treaty: + **10%**
  - Legal entities established in a region covered by the article 87.3 (c) of the Treaty : + **5%**
  - Project linked to EU R&D framework programme: + **15%**
  - Project involving cross-border co-operation: +**10%**

However, it must be noted that the cumulation of the standard rate and the increases is subject to an **absolute limit of 75% for research and technological development or innovation activities and 50% for demonstration activities.**

#### 3.1.3.4.2- Impact on FP6

The Community financial contribution may be adapted taking into account the limits of public support established by the Community framework for State aid for Research and Development (Annex III of the Framework Programme Decision for FP6-EC establishing the type of activities proposed per instrument):

- For entities other than non-profit-making higher education or research establishments
- Involved in research and technological development or innovation activities and/or in demonstration activities.

As a consequence, only the following instruments are concerned:

- Integrated projects (IP) ;
- Specific targeted research or innovation projects (STReP) ;
- Specific research projects for SMEs (Cooperative and Collective Research Projects) ;
- Integrated infrastructures initiatives (I<sup>3</sup>)

<sup>144</sup> It must be noted that in addition to industrial research action and pre-competitive development activity, the Community framework for State aid for research and development mentions explicitly that “fundamental research action ” can be supported up to 100%.

Moreover, as those instruments are always characterised by a cross-border co-operation (minimum of at least three independent legal entities established in three different countries (paragraph 2 of Article 5 of the RP)<sup>145</sup>, the maximum rates of public support are:

- Research and technological development or innovation activities: **75%** (in which a maximum of **50%** from the FP6 Community financial contribution) ;
- Demonstration activities: **50%** (in which a maximum of **35%** from the FP6 Community financial contribution).

**Any contractors subject to the provisions laid down in the Community framework for State aid for Research and Development** must ensure that they comply fully with those provisions (third paragraph of article II.24 of Annex II (General conditions) to the FP6 model contract):

*“Contractors subject to the provisions of the state aid framework on the cumulation of public funding must ensure that they comply with its provisions.”*

As a consequence:

- any situation leading to incompatibility with Community financial contribution should be declared by the participant ;
- the FP6 Community financial contribution to be requested must be adapted in order to respect the aforementioned limits of public funding.

### **3.1.3.5- Additional conditions and/or particularities for some instruments**

#### **3.1.3.5.1- Integrated projects**

The implementation plan of an Integrated Project can describe tasks, work packages, activities, etc. for which there is no contractor proposed at the time of submission of the proposal, or at the negotiation level. This provides the possibility for the consortium to select the relevant entity(ies) during the implementation of the project by means of competitive calls<sup>146</sup>.

As the calculation of a grant to the budget is dependent upon, among other conditions, the cost reporting model used by the contractors, the estimated eligible costs of the resources needed to implement those above mentioned tasks, work packages, activities, ... (the future estimated costs of new contractor(s)) must be estimated according to a cost reporting model in relation with the type of legal entity envisaged for their implementation.

Therefore, as an example, if an SME is envisaged, the cost must be estimated:

- either with the use of the FCF model;

<sup>145</sup> RP – Article 5 – Paragraph 2:

*“Subject to paragraph 3, the minimum number of participants established by the work programmes shall not be fewer than three independent legal entities established in three different Member States or associated States, of which at least two shall be Member States or associated candidate countries.”*

<sup>146</sup> See FP6 model contract – Annex II – Article II.2 – paragraph 4.

- or with the use of the FC model.

If the FC model is used, it is recommended to estimate the indirect eligible costs according to the economic environment of the expected legal entity (labour intensive or capital intensive environment). A general rule could be to estimate such costs to:

- 20% of the eligible direct costs for labour intensive environment
- up to 80% of the eligible direct costs for capital intensive environment

#### 3.1.3.5.2- Specific Research projects for SMES

The Community financial contribution is to be used to cover all the costs of the RTD performers as they are providing a sort of service to the SMEs and have no rights to use the knowledge generated by the project. The consortium agreement must clearly set this out.

Although the RTD performer is a cooperative or collective research project for SMEs normally works in Community research projects using the AC model, it may exceptionally for these projects use the FC model (if it can calculate its full direct costs).

#### 3.1.3.5.3- Integrated Infrastructures Initiatives

The maximum reimbursement rates of eligible costs under the specific activities of an I<sup>3</sup> or an SSA aimed at providing **connectivity services** are not equal to 100% but to **50% irrespective of which cost reporting model** (AC, FCF or FC) is used<sup>147</sup> (Article III.15 of Annex III (Specific provisions) for I<sup>3</sup> and SSA for infrastructures to the FP6 model contract<sup>148</sup>).

#### 3.1.3.5.4- Coordination Action for Infrastructures

Special clause n° 11 (which appears in Article 9 of the core-contract for these actions)<sup>149</sup> will indicate there are no training activities in a Coordination Action for Infrastructures.

#### 3.1.3.5.5- Specific Support Action for Infrastructures

Special clause n° 17 (which appears in Article 9 of the core-contract for these actions)<sup>150</sup> will indicate that trans-national access is an activity to be used in this instrument and that the user-fee can be applied to this activity.

<sup>147</sup> See also Annex 3 (6.3) to these guidelines.

<sup>148</sup> FP6 model contract – Annex III for I3 and SSA Infrastructures – Article III.14:

*“As an exception to Article II.25, for the continued provision and upgrading of the required connectivity services as specified in Annex I, the maximum reimbursement rate shall be 50% of eligible costs, irrespective of which of the cost reporting models is used.”*

<sup>149</sup> See Special clause N°11 in Annex 6.9.

### 3.1.3.6- Examples

The following are some simple examples to calculate the Community financial contribution for an Integrated Project.

#### 3.1.3.6.1- Example 1 (level of complexity: low)

- Hypothesis
  - 4 independent legal entities, respectively established in Netherlands (NL), Poland (PL), United Kingdom (UK) and Russia (RU), constitute the consortium of an Integrated Project:
    - ✓ the Dutch participant is a non-profit public body whose accounting system allows the share of its direct and indirect costs relating to the project to be distinguished. As a consequence it had the choice between the FCF and the FC model and chose the FC. Its eligible indirect costs are equal to 85% of its direct eligible costs ;
    - ✓ the Polish participant is an SME. As a consequence it had the choice between the FCF and the FC model and chose the FCF.
    - ✓ the British participant is a big enterprise. As a consequence it had no choice and applied the FC model. Its eligible indirect costs are equal to 50% of its direct eligible costs ;
    - ✓ the Russian participant is a non-profit public body that does not have an accounting system that allows the share of its direct and indirect costs relating to the project to be distinguished. As a consequence it applied the AC model.
  - All participants are involved in each activity of the project (e.g.: research and technological development or innovation activities; demonstration activities; training activities and management of the consortium activities).
  - There is no subcontracting.
  - There are no receipts expected, whatever the form might be (contributions in kind and financial contribution by third parties; income generated by the project).
  - The resources of each participant are the same. They are composed of :
    - ✓ Two persons involved full time in the project:
      - ❖ The first person is a permanent researcher, whose salary is not dependent upon external funding and whose monthly direct cost is equal to €10.000. The researcher is involved half time in research and 1/4 in demonstration and 1/4 in training
      - ❖ The second person is a researcher specifically employed for the project whose monthly direct cost is also equal to €10.000. The researcher is involved half time in research and half time in demonstration.

<sup>150</sup> See special clause N°17 in Annex 6.9

- ✓ A third person involved 1/20 of its time in the project only for the management of the consortium whose monthly direct cost is also equal to €10.000. This person is a member of permanent staff, whose salary is not dependent on external funding.
  - ✓ Travel and subsistence for the purpose of the project: €15.000 (direct costs) for the whole duration of the project. All those costs are considered as costs linked to the management of the consortium.
  - The duration of the project is 5 years.
- Calculation of the grant
    - Each participant is eligible to receive a Community financial contribution (Article 5 of the RP).  
The consortium is composed of:
      - ✓ 2 independent legal entities established in two different Members States (NL, UK) ;
      - ✓ 1 independent legal entity established in an Associated Candidate Country (PL) ;
      - ✓ 1 independent legal entity established in a Third Country targeted by the specific activities of international co-operation (RU).
    - Providing they have respected the provisions relating to eligible costs, direct and indirect costs, types of activity and cost reporting models<sup>151</sup>, and as far as there is no expected receipts<sup>152</sup>, the participants will propose the following provisional budget:

Participant n°	Organisation short name	Cost model used	Estimated eligible costs and receipts		Type of activities					Total (6) = (1) + (2) + (3) + (4) + (5)	
					Research and technological development or innovation activities (1)	Demonstration activities (2)	Training activities (3)	Management of the consortium activities (4)	Other specific activities (5)		
1	NL Legal entity (Organism of research)	FC	Eligible costs	Total eligible costs (a)+(b)	1.110.000	832.500	277.500	83.250		2.303.250	
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			Receipts	of which subcontracting							0
				Indirect costs (b)	510.000	382.500	127.500	38.250		1.058.250	
				Total Receipts							0
2	PL Legal entity (SME)	FCF	Eligible costs	Total eligible costs (a)+(b)	720.000	540.000	180.000	54.000		1.494.000	
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			Receipts	of which subcontracting							0
				Indirect costs (b)	120.000	90.000	30.000	9.000		249.000	
				Total Receipts							0
3	UK Legal entity (Big enterprise)	FC	Eligible costs	Total eligible costs (a)+(b)	900.000	675.000	225.000	67.500		1.867.500	
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			Receipts	of which subcontracting							0
				Indirect costs (b)	300.000	225.000	75.000	22.500		622.500	
				Total Receipts							0
4	RU Legal entity (University)	AC	Eligible costs	Total eligible costs (a)+(b)	360.000	360.000	0	54.000		774.000	
				Direct costs (a)	300.000	300.000	0	45.000		645.000	
			Receipts	of which subcontracting							0
				Indirect costs (b)	60.000	60.000	0	9.000		129.000	
				Total Receipts							0
<b>Total eligible costs</b>									<b>6.438.750</b>		

In this example, it appears clearly that, even though the four participants use the same type of resources with the same level of direct costs:

- ✓ The full cost participants (FC or FCF) are able to charge all their direct eligible costs (€1.245.000) but the AC participant may only charge its direct additional eligible costs (€ 600.000) plus its direct eligible costs (additional and non additional) relating to management of the consortium activities (€ 45.000) ;

<sup>151</sup> See part 2 – Framework of eligible costs for FP6 grants which reimburse costs

<sup>152</sup> See part 3 - Mechanisms of the FP6 Community financial contribution – Especially 3.1.2.2 and 3.1.2.4.

- ✓ The total eligible costs between participants using a full cost model (FC or FCF) are different due to their different indirect costs;
- The requested maximum Community financial contribution is calculated as followed:

- ✓ For the AC participant(s) (Russian University):

**100% of the total eligible costs within the limit of the difference between the estimated total eligible costs and the estimated receipts, whatever the type of activities:**

Research activities: [(100% x 360.000) within the limit of (360.000 – 0)]

+ Demonstration activities: [(100% x 360.000) within the limit of (360.000 – 0)]

+ Training activities: [(100% x 0) within the limit of (360.000 – 0)]

+ Management of the consortium activities: [(100% x 54.000) within the limit of (54.000 – 0)]

= € **774.000**

- ✓ For the FC or FCF participant(s) (Dutch research organisation ; Polish SME and British Big enterprise):

- ❖ Research activities: **50% of the total eligible costs within the limit of the difference between the estimated total eligible costs and the estimated receipts ;**

- ❖ Demonstration activities: **35% of the total eligible costs within the limit of the difference between the estimated total eligible costs and the estimated receipts ;**

- ❖ Training activities: **100% of the total eligible costs within the limit of the difference between the estimated total eligible costs and the estimated receipts ;**

- ❖ Management of the consortium activities: **100% of the total eligible costs within the limit of the difference between the estimated total eligible costs and the estimated receipts ;**

As an example for the Dutch research organisation it means:

- ◆ Research activities:

As this organisation is not subject to the limits established by the Community framework for State aid for Research and Development,

- If the difference between the estimated total eligible costs and the estimated receipts is inferior to 50% of the estimated total eligible costs: difference between the estimated total eligible costs and the estimated receipts ;

For example:

$$1.110.000 - 700.000 < 50\% \times 1.110.000$$

=> € **410.000**

- If the difference between the estimated total eligible costs and the estimated receipts is equal or superior to 50% of the estimated total eligible costs: 50% of the estimated total eligible costs

$$1.110.000 - 0 > 50\% \times 1.110.000$$

$$\Rightarrow \text{€ } 555.000$$

◆ Demonstration activities:

As this organisation is not subject to the limits established by the Community framework for State aid for Research and Development,

- If the difference between the estimated total eligible costs and the estimated receipts is inferior to 35% of the estimated total eligible costs: difference between the estimated total eligible costs and the estimated receipts ;

For example:

$$832.500 - 400.000 < 35\% \times 832.500$$

$$\Rightarrow \text{€ } 108.625$$

- If the difference between the estimated total eligible costs and the estimated receipts is equal or superior to 35% of the estimated total eligible costs: 35% of the estimated total eligible costs

$$832.500 - 0 > 35\% \times 832.500$$

$$\Rightarrow \text{€ } 291.375$$

◆ Training activities:

$$[(100\% \times 277.500) \leq (277.500 - 0)] \Rightarrow \text{€ } 277.500$$

◆ Management of the consortium activities:

$$[(100\% \times 83.250) \leq (83.250 - 0)] \Rightarrow \text{€ } 83.250$$

◆ Community financial contribution :

$$(\text{€ } 555.000 + \text{€ } 291.375 + \text{€ } 277.500 + \text{€ } 83.250) = \text{€ } 1.207.125$$

- As management of the consortium activities as a whole do not exceed 7% of the total Community financial contribution, the maximum grant to the budget is **€3.742.875**.

This amount is identified in the second paragraph of Article 5 of the core contract of the FP6 model contract (except for actions to promote human resources and mobility). The form of the grant (“Grant to the Budget”) is mentioned in the first paragraph of Article 5.

- The following table summarises the above mentioned elements:

Participant n°	Organisation short name	Cost model used	Estimated eligible costs and receipts		Type of activities					Total (6)=(1)+(2)+(3)+(4)+(5)	Requested Grant to the Budget
					Research and technological development or innovation activities (1)	Demonstration activities (2)	Training activities (3)	Management of the consortium activities (4)	Other specific activities (5)		
1	NL Legal entity (Organism of research)	FC	Eligible costs	Total eligible costs (a)+(b)	1.110.000	832.500	277.500	83.250		2.303.250	1.207.125
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			of which subcontracting						0		
			Indirect costs (b)	510.000	382.500	127.500	38.250		1.058.250		
			Receipts	Total Receipts						0	
2	PL Legal entity (SME)	FCF	Eligible costs	Total eligible costs (a)+(b)	720.000	540.000	180.000	54.000		1.494.000	783.000
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			of which subcontracting						0		
			Indirect costs (b)	120.000	90.000	30.000	9.000		249.000		
			Receipts	Total Receipts						0	
3	UK Legal entity (Big entreprise)	FC	Eligible costs	Total eligible costs (a)+(b)	900.000	675.000	225.000	67.500		1.867.500	978.750
				Direct costs (a)	600.000	450.000	150.000	45.000		1.245.000	
			of which subcontracting						0		
			Indirect costs (b)	300.000	225.000	75.000	22.500		622.500		
			Receipts	Total Receipts						0	
4	RU Legal entity (University)	AC	Eligible costs	Total eligible costs (a)+(b)	360.000	360.000	0	54.000		774.000	774.000
				Direct costs (a)	300.000	300.000		45.000		645.000	
			of which subcontracting						0		
			Indirect costs (b)	60.000	60.000	0	9.000		129.000		
			Receipts	Total Receipts						0	

Total eligible costs		6.438.750	
Total Requested Grant to the Budget		3.742.875	
in which for Management of the consortium activities		258.750	6,91%
Not exceeding 7% of the total Community financial contribution, the Requested Grant to the Budget for the whole project must not be adapted. As a consequence, it is set to the following amount :			
Total Requested Grant to the Budget		3.742.875	
in which for Management of the consortium activities		258.750	6,91%

- Similar tables are in Annex I (technical Annex) to the contract. An example of the table(s) is provided in Annex (6.4) to these guidelines.

### 3.1.3.6.2- Example 2 (level of complexity: medium)

#### Hypothesis

Same as in example 1 and:

- All participants are involved in each activity of the project (e.g.: research and technological development or innovation activities; demonstration activities; training activities and management of the consortium activities).
- There is subcontracting.
- There are receipts expected and income generated by the project).
- The resources of each participant are the same. They are composed of :
  - Two persons involved full time in the project:
    - The first person is a permanent researcher, whose salary is not dependent upon external funding whose monthly direct cost is equal to €10.000. The researcher is involved half time in research and 1/4 in demonstration and 1/4 in training
    - The second person is a researcher specifically employed for the project whose monthly direct cost is also equal to €10.000. The researcher is involved half time in research and half time in demonstration.
  - A third person involved 1/20 of its time in the project only for the management of the consortium. The researcher's monthly direct cost is also equal to €10.000. This person is a member of permanent staff, whose salary is not dependent on external funding.

- ✓ Travel and subsistence for the purpose of the project: €15.000 (direct costs) for the whole duration of the project. All those costs are considered as costs linked to the management of the consortium.
- The duration of the project is 5 years.
- Calculation of the grant
  - Each participant is eligible to receive a Community financial contribution (Article 5 of the RP).  
The consortium is composed of:
    - ✓ 2 independent legal entities established in two different Members States (NL, UK) ;
    - ✓ 1 independent legal entity established in an Associated Candidate Country (PL) ;
    - ✓ 1 independent legal entity established in a Third Country targeted by the specific activities of international co-operation (RU).
  - Providing they have respected the provisions relating to eligible costs, direct and indirect costs, types of activity and cost reporting models, and the expected receipts have an impact on the EC contribution, the participants will propose the following provisional budget:

**TABLE**

In this example, even though the four participants use the same type of resources with the same level of direct costs:

- ✓ The full cost participants (FC or FCF) are able to charge all their direct eligible costs (€1.245.000) but the AC participant may only charge its direct additional eligible costs (€ 600.000) plus its direct eligible costs (additional and non additional) relating to management of the consortium activities (€ 45.000). Further the AC participant cannot charge the flat rate on its subcontracted costs. ;
- ✓ The total eligible costs between participants using a full cost model (FC or FCF) are different due to their different indirect costs. Even though there are receipts they do not exceed the limits for the EC contribution and the maximum is paid;
- The requested maximum Community financial contribution is calculated as followed:
  - ✓ For the AC participant(s) (Russian University):

**100% of the total eligible costs:**

    - + Research activities: [(100% x 360.000) of which 50.000 subcontracted
    - + Demonstration activities: [(100% x 360.000)
    - + Training activities: [(100% x 0)
    - + Management of the consortium activities:
    - = € xxxx**

- ✓ For the FC or FCF participant(s) (Dutch research organisation ; Polish SME and British Big enterprise):
  - ❖ Research activities: 50% of the total eligible costs ;
  - ❖ Demonstration activities: 35% of the total eligible costs ;
  - ❖ Training activities: 100% of the total eligible costs ;
  - ❖ Management of the consortium activities: 100% of the total eligible costs ;

As an example for the Dutch research organisation it means:

- ◆ Research activities:
- ◆ There are receipts of € 700,000 that have to be taken into account:
  - The difference between the estimated total eligible costs and the estimated receipts is less than 50% of the estimated total eligible costs so the EC contribution will be reduced as a result ;

For example:

$$1.110.000 - 700.000 < 50\% \times 1.110.000$$

$$\Rightarrow \text{€ } 410.000 \text{ (if no receipts EC contribution = €555.000)}$$

- If the difference between the estimated total eligible costs and the estimated receipts is equal or superior to 35% of the estimated total eligible costs: 35% of the estimated total eligible costs
- ◆ Training activities:

$$[(100\% \times 277.500) - (277.500 - 0)] = \text{€ } 277.500$$
- ◆ Management of the consortium activities:

$$[(100\% \times 83.250) - (83.250 - 0)] = \text{€ } 83.250$$
- ◆ Community financial contribution :

$$(\text{€ } 410.000 + \text{€ } 291.375 + \text{€ } 277.500 + \text{€ } 83.250) = \text{€ } 1.062.125$$

- As management of the consortium activities as a whole does not exceed 7% of the total Community financial contribution, the maximum grant to the budget is **€3.597.875**.

This amount is identified in the second paragraph of Article 5 of the core contract of the FP6 model contract (except for actions to promote human resources and mobility). The form of the grant (“Grant to the Budget”) is mentioned in the first paragraph of Article 5.

- The following table summarises the above mentioned elements:

**ADD REVISED TABLE**

3.1.3.6.3- Example 3 (level of complexity : high)

- Hypothesis
  - **[To be provided by DG RTD – Unit A3**
  - Example with:**
    - receipts - estimated eligible costs for management of the consortium activities over 7% of the requested Community financial contribution
    - unknown contractors to be selected through a competitive call

3.2- PAYMENT MODALITIES OF THE COMMUNITY FINANCIAL CONTRIBUTION3.2.1- General principles

The following general principles are applicable for any type of grant (Lump sum ; Grant for integration ; Grant to the budget).

3.2.1.1- Community financial contribution is a maximum amount

The **Community financial contribution** mentioned in the second paragraph of article 5 of the core-contract is a **maximum that can never be exceeded** (second paragraph of article II.28 of Annex II (General conditions) to the FP6 model contract).

*“The total amount paid to the consortium by the Commission may not in any circumstances exceed the maximum amount of the grant laid down in Article 5, even if the total actual eligible costs exceed the estimated total eligible costs specified in Article 5 or in the table in Annex I.”*

In addition to its right to terminate the contract, if the project is not implemented or is implemented poorly, partially or late, the Commission may reduce the grant initially provided for in line with the actual implementation of the project on the terms laid down in the contract<sup>153</sup>.

Any reduction in the amount of the grant to be paid by the Commission shall be effected by:

- reducing the balance of the grant payable when the project ends;
- requesting the contractors to repay any amounts overpaid, if the total amount already paid by the Commission exceeds the final amount which it actually owes.<sup>154</sup>

3.2.1.1.1- The particular case of additional Community financial contribution

<sup>153</sup> FP6 model contract – Annex II – Article II.28 – paragraph 5.

<sup>154</sup> FP6 model contract – Annex II – Article II.28 – paragraph 6.

However, it is also possible for the Community financial contribution to be increased (Article 16 of the RP):

*The Commission may increase the Community financial contribution to an indirect action already under way in order to expand its scope to cover new activities which may involve new participants.*

*It shall do so in the case of the indirect actions referred to in Articles 9(1) and 9(2)(c) by way of a call for supplementary proposals, which the Commission shall publish and advertise in accordance with Article 9(4) and which may be restricted, if necessary, to indirect actions already under way. The Commission shall evaluate and select such proposals in accordance with Article 10.*

The Commission may decide, under certain circumstances, to launch calls for proposals restricted (or not) to on-going FP6 projects selected through a call for proposals (Integrated projects, Networks of excellence, Specific targeted research or innovation projects, Specific research project for SMEs, Integrated infrastructures initiatives, Coordination actions, Actions to promote human resources and mobility and some Specific support actions).

Such supplementary calls for proposals must have the purpose of either covering new activities and/or expanding the consortium.

Supplementary calls for proposals shall be published and advertised as any other call for proposals.

The evaluation and selection of such proposals must follow the relevant procedures based on Article 10 of the RP.

Only in this very particular case can on-going FP6 projects benefit from a Community financial contribution additional to that identified in the second paragraph of Article 5 of the core-contract.

### **3.2.1.2- Community financial contribution is paid to the consortium through the coordinator**

The coordinator is responsible for receiving and ensuring the distribution of the Community financial contribution (first paragraph of Article 8 of the core-contract of the FP6 model contract, and in accordance with the second subparagraph of the first paragraph of article 13 of the RP)<sup>155</sup>:

*“The Community financial contribution to the project shall be paid to the coordinator on behalf of the contractors in accordance with the following provisions:*

- a) the consortium shall determine the allocation of each tranche of the Community financial contribution between the contractors, in accordance with this contract and any relevant provisions in their consortium agreement.*
- b) the payment of the Community financial contribution to the*

<sup>155</sup> RP – Article 13 – first paragraph – second subparagraph:

*“The Community financial contribution shall be paid to the coordinator. The coordinator shall administer the Community financial contribution regarding its allocation between participants and activities in accordance with the contract and with decisions taken by the consortium according to the internal procedures established in the consortium agreement.”*

*coordinator discharges the Commission from its obligation to make this payment to the contractors.*

*c) the coordinator shall distribute the Community financial contribution without unjustified delay. [However, the initial pre-financing shall not be distributed to the contractors until the minimum number of contractors required by the Rules for Participation have acceded to the contract.]<sup>156</sup>”*

Therefore, it must be kept in mind that:

- The **coordinator receives the Community financial** contribution on behalf of the consortium ;
- The **coordinator has an obligation to distribute** (indent (c) of the third paragraph of Article II.3<sup>157</sup> of the Annex II (General conditions) to the FP6 model contract). **without unjustified delays, this Community financial contribution to the participants, in accordance with the provisions of the contract and the relevant decisions of the consortium as established in the consortium agreement**

Unlike the previous Framework Programmes, the Community financial contribution:

- **is paid to the consortium only through the coordinator. Then, according to the internal rules of the consortium, the Community financial contribution is allocated to the contractors by the coordinator.** This could be on the basis of the costs claimed and accepted by the Commission and/or any other method established by the consortium.
- **is not paid to each contractor;**

The one exception is the Community financial contribution to the Joint Research Centre (JRC) of the Commission, which will be paid by means of budget transfer according to administrative agreements between the JRC and the Commission.

Therefore, where the JRC is one of the contractors, the coordinator, on behalf of the consortium, has to inform the Commission, prior to any pre-financing or payment, of the relevant share of the Community financial contribution for the JRC. A special clause in the contract will identify these provisions.

### **3.2.1.3- A system of periodic pre-financing (advances)**

<sup>156</sup> This last sentence applies only where the pre-financing is paid upon signature of the coordinator only.

<sup>157</sup> FP6 model contract – Annex II – paragraph II.3 – third paragraph – indent (c):

*“The coordinator shall:*

*(...)*

*c) receive all payments made by the Commission to the consortium and administer the Community contribution regarding its allocation between contractors and activities in accordance with this contract and the decisions taken by the consortium. The coordinator shall ensure that all the appropriate payments are made to contractors without unjustified delay.”*

**The Community financial contribution is distributed to the coordinator on behalf of the consortium through periodic pre-financings in order to assure greater financial certainty to the consortium** (second paragraph of article 8 of the core-contract of the FP6 model contract).

**Whatever the form of the grant** (mentioned in the first paragraph of Article 5 of the core-contract of the FP6 model contract), **the pre-financing** for the first (or in certain cases the single) period **is transmitted to the coordinator on behalf of the consortium within 45 calendar days** according<sup>158</sup> to one of the following:

- the date of entry into force of the contract, **or** ;
- the date of informing the Commission of the accession to the contract of the last contractor required to constitute the minimum number of participants established by the Rules for Participation (as detailed in the call for proposals to which the project is related), **or** ;
- the date of informing the Commission of the last date of accession to the contract of all the contractors identified in Article 1.2 of the core-contract.

The choice of one of the above mentioned possibilities is at the discretion of the Commission services. They must inform the consortium during the negotiation phase and the exact provision will be included in the contract.

In the case of projects with several periods, each period will be covered by pre-financing, subject to certain conditions mentioned below.

All pre-financing remains the property of the Community until it is accepted as a final payment (first sentence of the first paragraph and fourth paragraph of Article 3 of the IM<sup>159</sup>).

- pre-financing is not a definitive payment (final payment);
- pre-financing is a potential debt of the contractors towards the Commission representing the European Communities.

### **3.2.1.4- Payments based on the approval of periodic reports**

The Community financial contribution is paid upon approval of the relevant reports referred to in Article II.7 of Annex II (General conditions) to the contract (as established by the second paragraph of Article 8 of the core-contract of the FP6 model contract and the first paragraph of Article II.28 of Annex II (General conditions) to that contract)<sup>160</sup>.

<sup>158</sup> As mentioned in the indent (a) of the second paragraph of article 8 of the core-contract of the FP6 model contract (except for actions to promote human resources).

<sup>159</sup> IM: Part one – Title II – article 3 – first paragraph – first sentence:  
*“Pre-financing within the meaning of Article 105 shall remain the property of the Communities, unless the basic act, within the meaning of Article 49(1) of the Financial Regulation, provides otherwise.”*  
 FP6 basic acts do not provide otherwise.

IM: Part one – Title II – article 3 – fourth paragraph:  
*“The rule referred to in paragraph 1 shall apply to prefinancing paid under contracts or agreements concluded after the entry into force of this Regulation.”*  
 IM entered into force the 01/01/2003.

<sup>160</sup> FP6 model contract – Annex II – paragraph II.28 – first paragraph:  
*“Without prejudice to Article II.29, the Commission shall adopt the amount of the final payment to be made to the contractor on the basis of the documents referred to in Article II.7 which it has approved.”*

The periodicity of the required relevant reports is provided in Article 6 and, if relevant<sup>161</sup>, in the second paragraph of Article 7 of the core-contract of the FP6 model contract.

In any grant, the reports must be provided electronically but the originals must be sent by registered mail with acknowledgement of receipt (fifth paragraph of article II.7 of Annex II (General conditions) to the FP6 model contract). The date of arrival of the latter is deemed to be the official date of reception:

*“The consortium shall transmit these documents to the Commission by electronic means in accordance with the provisions of Article 11.2 [mailbox address of the Commission]. However, the originals of each of these documents and the audit certificates shall be submitted in accordance with the provisions of Article 11.1 [street address of the Commission]. In such cases, the date of reception pursuant to Article 11.1 prevails. The layout and content of the reports shall conform to the instructions and guidance notes established by the Commission<sup>162</sup>. The reports for publication should be of a suitable quality to enable direct publication.”*

### **3.2.1.5- Interest yielded by pre-financing provided by the Commission**

Pre-financing remains the property of the Community and any interest earned by the co-ordinator from that pre-financing must be taken into account in determining the final Community financial contribution (Article II.27 of Annex II (General conditions) to the FP6 model contract, reflecting the fourth paragraph of Article 5 of the FR<sup>163</sup> and Articles 3<sup>164</sup> and 4<sup>165</sup> of the IM).

*1. In accordance with the provisions of the Financial Regulation, pre-financing granted to the coordinator on behalf of the consortium remains the property of the Community.*

*2. The contractor shall inform the Commission of the amount of any interest or equivalent benefits yielded by the pre-financing it has received from the Commission. Notification must be made annually if the interest in question represents a significant amount, and in any event when the request for interim*

<sup>161</sup> The second paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility) does not apply for contract supported through a lump sum grant and for IP and NoE.

<sup>162</sup> Except for Financial Statement per Activity (Forms C) which are a part of the contract (Annex VI), the layout and detailed content of the reports will be provided in Commission guidance notes, and especially in the “Management of FP6 Projects Guidelines”.

<sup>163</sup> FR – Part one – Title II – Article 5 – fourth paragraph:  
*“Subject to Articles 18 and 74, interest yielded by the funds which are the property of the European Communities shall be entered in the budget as miscellaneous revenue.”*

<sup>164</sup> See footnote n° 159.

<sup>165</sup> IM: Part one – Title II – article 4 – first paragraph:  
*“Where pre-financing which remains the property of the Communities in accordance with Article 3 yields interest or equivalent benefits, these shall be paid to the general budget of the European Communities (hereinafter ‘the budget’) as miscellaneous revenue.”*

IM: Part one – Title II – article 4 – second paragraph – indent (b):  
*Authorising officers shall ensure that, under contracts and agreements concluded with beneficiaries:*

*(...)*

*(b) the beneficiaries inform the authorising officer responsible of the amount of any interest or equivalent benefits yielded by those funds at least once a year if such interest represents significant amounts and in any event whenever requests are made for interim payments or payments of balances that clear the pre-financing.*

*payments and the request for payment of the balance of the grant is made.*

In the relevant periodic report<sup>166</sup> the coordinator (and only the coordinator) must declare to the Commission any interest or equivalent benefits yielded by the pre-financing that it has received by the Commission on behalf of the Commission.

As interest yielded by pre-financing provided by the Commission remains the property of the Community, the amount of periodic interest declared by the coordinator will be considered as additional pre-financing and will be taken into consideration in determining the total amount of the relevant periodic pre-financing.

### **Example:**

If, for a specific period, the consortium has received a pre-financing equal to € 1.000.000 and if, in the relevant periodic report, the coordinator declared that the amount of interest (or any equivalent benefits) yielded by this pre-financing it has received on behalf of the consortium is equal to €13.250, the total pre-financing received by the consortium is equal to €1.013.250.

This must be taken into account in determining the next payment of the Community financial contribution for the subsequent period.

The consortium and individual contractors have the freedom to organise the financial management of the project in the best way they judge appropriate. However in order to facilitate the financial follow-up of the project, particularly regarding interest generated by the pre-financing, it would be advisable and strongly recommended to the coordinator to open a specific bank account for the specific project supported by the Community.

The reference to the bank account for the project is identified in the third paragraph of Article 11 of the core-contract of the FP6 model contract<sup>167</sup>.

## **3.2.2- Payment modalities for a Lump sum Grant (covering a single period)**

For Lump sum grants (some Specific support actions and some actions to promote human resources and mobility), the Community financial contribution is paid to the coordinator on behalf of the consortium as follows:

### **3.2.2.1- A single pre-financing**

**A single pre-financing is transmitted to the coordinator on behalf of the consortium within 45 calendar days** (indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract<sup>168</sup>) following one of the below:

<sup>166</sup> The Financial Statement per Activity (Form C) for a grant to the budget and grant for integration ; the activity report for certain lump sum grant.

<sup>167</sup> FP6 model contract – Core contract – Article 11 – third paragraph:

*“The bank account of the coordinator to which all payments of the Community financial contribution shall be made is:*

*Name of holder:*

*Account reference: IBAN/sort code and number”*

<sup>168</sup> FP6 model contract – Core contract – Article 8 – second paragraph - Option C – indent (a):

*“pre-financing of [amount of XXXX Euro (total pre-financing may not exceed 80% of the Community financial contribution unless bank guarantee(s)is (are)provided, in which case a maximum of 85% is possible)] within 45 days following [the date*

- the date of entry into force of the contract, **or**;
- the date the Commission is informed of the accession to the contract of the last contractor required to constitute the minimum number of participants established by the Rules for Participation (as detailed in the call for proposals to which the project is related), **or** ;
- the date the Commission is informed of the last date of accession to the contract of all the contractors identified in Article 1.2 of the core-contract.

The choice of one of the above mentioned possibilities is at the discretion of the Commission services. They must inform the consortium during the negotiation phase and the specific provisions will be identified in the contract.

**The amount of the pre-financing is established during negotiation and is mentioned in indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract.**

The amount of this **pre-financing can not normally exceed 80% of the amount of the maximum Community financial contribution (mentioned in the second paragraph of article 5 of the core-contract)** (Article 182 of the IM<sup>169</sup> particularly paragraphs 2, 3 and 5). This percentage can be exceeded if, **subject to the assessment and acceptance of the authorising officer responsible and taking into account the type of legal entities involved in the consortium:**

- **the contractor(s) has(ve) lodged a bank guarantee.**
- **there is an obligation of financial collective responsibility on the part of the contractors of a level<sup>170</sup> sufficient to secure the protection of the Community financial interests.**

### **3.2.2.2- Conditions for the payment of the grant**

The Community financial contribution is paid as followed (in accordance with indent (b) of the second paragraph of Article 8<sup>171</sup>, the first paragraph of Article 7<sup>172</sup> and the Article 6<sup>173</sup> of

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*of entry into force of the contract][the date the Commission is informed of the accession of the last contractor required to constitute the minimum number of participants established by the Rules for Participation, and as detailed in the call for proposals to which the project is related][the date the Commission is informed of accession to the contract of all the contractors identified in Article 1.2]"*

<sup>169</sup> IM – Part one – Title VI – Article 182 – paragraph 2 – first subparagraph:

*“Where pre-financing represents over 80 % of the total amount of the grant, payment may not be made until after the beneficiary has lodged a guarantee subject to the assessment and acceptance of the authorising officer responsible.”*

IM – Part one – Title VI – Article 182 – paragraph 3:

*“The guarantee shall be provided by an approved bank or financial institution established in one of the Member States.*

*The guarantee may be replaced by a joint and several guarantee by a third party or by the joint guarantee of the beneficiaries of an action who are parties to the same grant agreement.*

*The guarantee shall be denominated in euro.*

*It shall have the effect of making the bank or financial institution, third party or the other beneficiaries stand as irrevocable collateral security, or first-call guarantor of the grant beneficiary's obligations.”*

IM – Part one – Title VI – Article 182 – paragraph 5 – first paragraph:

*“The authorising officer responsible may waive the obligation laid down in paragraph 2 for public-sector bodies and the international organisations referred to in Article 43.”*

<sup>170</sup> For more information on the notion of sufficient level of financial collective responsibility of the contractors, see Part 4 of those guidelines (“Controls”).

<sup>171</sup> FP6 model contract – Core contract – Article 8 – second paragraph - Option C1 – indent (b):

*“the outstanding balance shall be paid within 45 days following the approval by the Commission of the reports referred to in Articles II.7.4.a and II.7.4 c. This payment shall be considered as final, subject to the results of any audit or review, which may be carried out pursuant to the provisions of Article II.29.”*

the core-contract and with the first<sup>174</sup> and sixth<sup>175</sup> paragraphs of Article II.7 and Article II.8 of Annex II (General conditions) to the FP6 model contract):

Special clauses (see special clauses 6 in Annex 6.9) may be foreseen in the contract that require certain contractors to provide a bank guarantee before the pre-financing is transmitted by the coordinator to that contractor or before the Commission provides the pre-financing for that contractor.

- the coordinator, on behalf of the consortium, must submit to the Commission by electronic means and by mail<sup>176</sup> within 45 calendar days<sup>177</sup> following the end of the single reporting period<sup>178</sup> (mentioned in Article 6 of the core-contract) the following reports:
  - a **final activity report** covering all the work, objectives, results and conclusions carried out during the period and summarising its findings and including all the information required in the report for the whole period, and the final plan for using and disseminating the knowledge, including a summary of all these aspects;
  - any **supplementary final reports** required by any Annex of the contract, especially by the technical Annex (Annex I)
  - a **report on the distribution of the Community financial contribution between contractors** made during that single reporting period<sup>179</sup>.
  - a **payment request** for the outstanding balance.  
The outstanding balance is equal to: **A – (B+C)**

With:

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<sup>172</sup> FP6 model contract – Core contract – Article 7 – first paragraph:

*“Reports referred to in Article II.7.2 shall be submitted for each reporting period identified in Article 6 within 45 days of the end of the period in question.”*

<sup>173</sup> FP6 model contract – Core contract – Article 6:

*“The project is divided into **reporting periods** of the following duration:*

- P1: from month 1 to month X
- P2: from month X+1 to month Y
- P3: from month Y+1 to month Z
- (...)
- [final]: from month [N+1] to the last month of the project”

<sup>174</sup> FP6 model contract – Annex II – Article II.7 – first paragraph:

*“All reports and deliverables shall be submitted within 45 days following the end of the respective periods identified in Articles 6 and 7.”*

<sup>175</sup> FP6 model contract – Annex II – Article II.7 – sixth paragraph:

*“Where the Community financial contribution is a lump sum the references to financial statements above are replaced by payment requests. None of the provisions in the contract relating to eligible costs apply in such cases.”*

<sup>176</sup> See 3.2.1.4.

<sup>177</sup> It must be noted that, as established in the second sentence of the third paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility):

*“this delay may be increased by 45 days at the request of the consortium”.*

<sup>178</sup> It must be noted that, as established in the third sentence of the third paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility):

*“Where the work is completed before the end of the duration of the project, the related activity and financial reports shall cover the period up to that date.”*

<sup>179</sup> It must be noted that, even though this report is not mentioned explicitly under the fourth paragraph of article II.7 of the Annex II (General conditions) to the FP6 model contract (except for actions to promote human resources and mobility) but in its second subparagraph, the fourth paragraph makes a clear reference to the reports of this second paragraph.

**A:** Maximum Community financial contribution mentioned in the second paragraph of Article 5 of the core-contract of the FP6 model contract

**B:** Pre-financing mentioned in the indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract

**C:** Amount of interest (or equivalent benefits) yielded by the pre-financing declared by the coordinator in the final activity report.

- The Commission evaluates the reports submitted by the consortium in accordance with the provisions of the contract and especially Article II.8 of Annex II (General conditions) to the FP6 model contract.

This evaluation will normally be completed within 45 calendar days following the receipt<sup>180</sup> of the requested reports. However, the Commission services may continue to review the reports during the period up to 90 days after receipt<sup>181</sup>.

- If the reports are approved:
  - the pre-financing is requalified as a definitive payment (final payment);
  - the outstanding balance shall be paid to the coordinator, on behalf of the consortium, within 45 calendar days following this approval<sup>182</sup>.

The payment of the Community financial contribution is considered as final, subject to the results of any audit or review which may be carried out up to five years after the end of the project<sup>183</sup>.

- In addition, within 60 calendar days after receipt of the outstanding balance, the coordinator must submit to the Commission **a report on the distribution of the Community financial contribution between contractors**, as established in indent (d) of the fourth paragraph of article II.7 of Annex II (General conditions) to the FP6 model contract<sup>184</sup>.

[Where the lump sum grant covers more than one period, then the provisions of the contract regarding periodic payments apply]

### **3.2.3- Payment modalities for a Grant that reimburses eligible costs**

<sup>180</sup> The date of the receipt is established by the date of reception of the originals of the reports sent to the physical address of the Commission provided in article 11.1 of the core-contract of the FP6 model contract. See also 3.2.1.4.

<sup>181</sup> FP6 model contract – Annex II – Article II.8 – third paragraph – first sentence:  
*“The Commission undertakes to evaluate all other reports submitted within 45 days of receipt thereof.”*

<sup>182</sup> It must be noted that from the date of reception of the requested reports to the date of the payment of the outstanding balance, there is a maximum delay of 90 calendar days (except in relevant case of suspension). Therefore, even if the delay for approval is exceeded, the total delay of 90 calendar days must be respected (it means a corresponding reduction of the delay for the payment).

<sup>183</sup> FP6 model contract – Annex II – Article II.29 – first paragraph – first sentence:  
*“The Commission may, at any time during the contract and up to five years after the end of the project, arrange for audits to be carried out, either by outside scientific or technological reviewers or auditors, or by the Commission departments themselves including OLAF.”*

<sup>184</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (d):  
*“a report on the distribution between contractors made after the end of the project of the Community financial contribution, which shall be submitted 60 days after receipt of the final tranche of the Community financial contribution to the consortium.”*

**3.2.3.1- General principles**

For Grants to the Budget or Grants for Integration<sup>185</sup> (Article II.24<sup>186</sup> of Annex II (General conditions) to the FP6 model contract), the Community financial contribution is made to the consortium according to the following cumulative conditions:

- the **reimbursement of eligible costs claimed by contractors**<sup>187</sup>; and
- the **maximum reimbursement rates of eligible costs per type of activity**<sup>188</sup>; and (except for Grants for Integration where the rates an indication of the maximum rate possible not the reimbursement rate for costs incurred)
- **in accordance with the cost reporting models used by each contractor**<sup>189</sup>; and
- the **approval of requested periodic reports**<sup>190</sup>; and
- subject to the **submission of an audit certificate** of the contractors' financial statements (when and where required by the provisions of the second paragraph of Article 7 of the core-contract of the FP6 model contract)<sup>191</sup>; and
- **taking into account any interest or equivalent benefits yielded by the pre-financing of the project**<sup>192</sup> ( only for the coordinator); and
- **taking into account the receipts of the project** to avoid any profit for the contractors<sup>193</sup>; and
- within the **limits of public funding established by international regulations and in particular by the Community framework for State aid for research and development for certain activities**<sup>194</sup>.

In addition to **eligible costs** (including the notions of direct and indirect eligible costs), **maximum reimbursement rates, type of activities, cost reporting models, interest (or equivalent benefits) yielded by the pre-financing of the project and limits of public funding established by international regulations and in particular by the Community framework for State aid for research and development for certain activities**<sup>195</sup>, the conditions for payment of the Community financial contribution (Grant to the Budget or Grant for Integration) require two other aspects:

<sup>185</sup> As mentioned in the second paragraph of article 5 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility).

<sup>186</sup> See paragraphs 1, 2, 3 and 5.

<sup>187</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (a).

<sup>188</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (b).

<sup>189</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (c).

<sup>190</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (d).

<sup>191</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (e).

<sup>192</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (f) and fifth paragraph.

<sup>193</sup> FP6 model contract – Annex II – Article II.24 – second paragraph.

<sup>194</sup> FP6 model contract – Annex II – Article II.24 – third paragraph.

<sup>195</sup> See especially 2.1, 2.2, 2.3, 2.4, 3.1.3.2, 3.1.3.3, 3.1.3.4 and 3.2.1.4.

- **reporting periods and reports;**
- **audit certificates**

### 3.2.3.1.1- Reporting periods and reports

#### 3.2.3.1.1.1- Reporting periods

Article 6 of the core-contract of the FP6 model contract states that:

*The project is divided into **reporting periods** of the following duration:*

- *P1: from month 1 to month X*
- *P2: from month X+1 to month Y*
- *P3: from month Y+1 to month Z*
- *(...)*
- *[final]: from month [N+1] to the last month of the project]*

According to the type of instrument, it may have one single or several reporting periods (this will be established in the second paragraph of Article 8 and mentioned in Article 6 of the core-contract of the FP6 model contract).

#### 3.2.3.1.1.2- Reports

### **PERIODIC REPORTS**

The coordinator, on behalf of the consortium must submit to the Commission, by electronic means and by mail,<sup>196</sup> within 45 calendar days following the end of each reporting period (mentioned in Article 6 of the core-contract) the following **periodic reports**<sup>197</sup> (first paragraph of Article 7 of the core-contract and the first, second and fifth paragraphs of Article II.7 of Annex II (General conditions) to the FP6 model contract):

- a **periodic activity report** containing an overview of the activities carried out by the consortium during that period, a description of progress toward the objectives of the project, a description of progress towards the milestones and deliverables foreseen, the identification of any problems encountered and corrective action taken. An updated plan for using and disseminating the knowledge shall be included as a separate part of this report<sup>198</sup>;
- a **periodic management report**<sup>199</sup> on that period **including**:
  - a **justification of the resources deployed** by each *contractor*, linking them to activities implemented and justifying their necessity;

Contractors using the additional cost model (AC) must identify **all** the resources employed on the project and provide a global estimate of all

<sup>196</sup> See 3.2.1.4.

<sup>197</sup> Except for Financial Statement per Activity (Forms C) which are a part of the contract (Annex VI), the layout and detailed content of the reports will be provided in Commission guidance notes, and especially in the “Management of FP6 Projects Guidelines”.

<sup>198</sup> FP6 model contract – Annex II – Article II.7 – second paragraph – indent (a).

<sup>199</sup> FP6 model contract – Annex II – Article II.7 – second paragraph – indent (b).

their costs (not just the additional eligible costs which are reported in the financial statement, but also their non additional or recurring costs) (indent (d) of the first paragraph of Article II.24 of Annex II (General conditions) to the FP6 model contract<sup>200</sup>).

Each financial statement should possess the following qualities that render the information useful to any reader, including the external auditor and the auditors of the Commission. Therefore, they must be:

- ✓ Understandable. Excessive detail and overly complex reporting formats should be avoided. Information should be presented fully, but clearly and precisely.
  - ✓ Relevant. Relevant information is timely and covers the full nature and extent of the financial activities presented. Information is relevant if it helps those who use it to carry out their activities.
  - ✓ Reliable. Reliable information represents what it purports to represent. It is accurate, free from bias, complete and verifiable.
  - ✓ Timely. Information should reflect the most recent information available and cover the period in question.
  - ✓ Consistent. Financial reporting should be presented on the same accounting basis, to the extent possible. If the basis of accounting and presentation has changed from one accounting period to the next because, for example, a more appropriate accounting policy or standard has been adopted, this fact and the effects on the financial report resulting therefrom should be highlighted and explained clearly.
  - ✓ Comparable. The basis for accounting and presentation, and the effect of any changes from one period to the next, should be highlighted and clearly explained.
  - ✓ Material. Insignificant events may be disregarded, but there must be full disclosure of all important information. Therefore an item is material if its disclosure is likely to lead the user of accounting information to act differently.
- **Form C (Financial statement per activity)** (the model format is set out in Annex VI to the contract) **provided by each contractor for that period:**
    - ✓ The eligible costs declared by the contractors in Forms C must be declared in EURO (footnote n°7 of Annex II (General conditions) to the FP6 model contract).

Therefore, costs incurred<sup>201</sup> in currencies other than the Euro shall be reported in Euro on the basis of:

<sup>200</sup> FP6 model contract – Annex II – Article II.24 – first paragraph – indent (d):

*(...) the Community shall make its contribution to the consortium under the following cumulative conditions:*

*(...)*

*(d) on the basis of financial statements provided by each contractor and, for contractors using the full cost models, which identify the sources of all co-financing provided by the contractor for the project, including its own resources, any financial transfers from third parties, or any contributions in kind. Contractors using the additional cost model must also identify in their periodic technical reports all the resources employed on the project and provide a global estimate of all their costs (not just the additional eligible costs which are reported in the financial statement);”*

<sup>201</sup> As well as receipts.

- ❖ the conversion rate that would have applied on the date that the actual costs were incurred

or

- ❖ the rate applicable on the first day of the month following the end of reporting period.

The relevant basis for the conversion rate used must be indicated by the contractor in Form C when submitting costs claims. The choice of one basis must be applied for the whole duration of the project.

The conversion rates may be obtained at the following internet address: <http://www.ecb.int/stats/eurofxref/> or in the relevant OJ of the European Union.

- ✓ Even though the **structure** of Form C is **identical** whatever the instrument and type of action, the **content** is often **different according to the type of instrument and action concerned**.

The main parts of the Form are the following:

- ❖ **General information**

Information on the contract, the contractor, the costs model used, the reporting period, ...

- ❖ **Box 1: Resources (Third party(ies))**

Declaration (if relevant) of third parties having made resources available to the contractor on the basis of a prior agreement<sup>202</sup>.

- ❖ **Box 2: Declaration of eligible costs**

Declaration of eligible costs per type of activities according to the cost model used.

- ❖ **Box 3: Declaration of receipts**

- ❖ **Box 4: Declaration of interest generated by the pre-financing**

Only for the coordinator

- ❖ **Box 5: Request for FP6 Financial contribution**

- ❖ **Box 6: Audit certificates**

Declaration (if relevant) of the reporting periods covered by the audit certificates, name of the auditor(s) and cost per audit certificate.

- ❖ **Box 7: Conversion rates**

Declaration of the basis of the conversion rate used.

- ❖ **Box 8: Contractor's certificate**

Certification (declaration and signatures) that all information provided in the Form C is complete and true, in conformity with the provisions of the contract and that full supporting documentation to justify that information is available at any moment at the request of the Commission and in the event of an

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<sup>202</sup> See 2.1.2.3.

audit by the Commission and/or by the Court of Auditors and/or their authorised representatives

- ✓ Information provided in a Financial statement per activity must be linked to the activity reports and justification of the resources deployed.
- ✓ A general overview of the different Forms C per type of instruments and type of actions is provided in Annex 5 (6.5) to these guidelines.
- a **summary periodic financial report** consolidating the claimed costs of all the contractors in an aggregate form, based on the information provided in Form C.
- a **report on the distribution made between contractors of the Community financial contribution during that period**<sup>203</sup>.
- any **supplementary reports required by any Annex** to the contract, especially Annex I (technical annex) and Annex III (specific provisions).

## FINAL REPORTS

The coordinator, on behalf of the consortium, must submit to the Commission, by electronic means and by mail,<sup>204</sup> within 45 calendar days<sup>205</sup> following the end of the last reporting period (in Article 6 of the core-contract) the following **final reports**<sup>206</sup> (third paragraph Article 7 of the core-contract and the first, fourth and fifth paragraphs of Article II.7 of Annex II (General conditions):

- a **final activity report** covering all the work, objectives, results and conclusions, and the final plan for using and disseminating the knowledge, including a summary of all these aspects<sup>207</sup>;
- a **final management report** covering the full duration of the project including a summary financial report consolidating the claimed costs of all the contractors in an aggregate form covering the entire duration of the project, based on the information provided in Form C by each contractor<sup>208</sup>;
- any **supplementary reports required by any Annex** to this contract, especially Annex I (technical annex) and Annex III (specific provisions)<sup>209</sup>;

<sup>203</sup> FP6 model contract – Annex II – Article II.7 – second paragraph – indent (c).

<sup>204</sup> See 3.2.1.4.

<sup>205</sup> It must be noted that, as established in the second sentence of the third paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility): *“this delay may be increased by 45 days at the request of the consortium”*.

<sup>206</sup> Except for Financial Statement per Activity (Forms C) which are a part of the contract (Annex VI), the layout and detailed content of the reports will be provided in Commission guidance notes, and especially in the “Management of FP6 Projects Guidelines”.

<sup>207</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (a).

<sup>208</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (b).

<sup>209</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (c).

The coordinator, on behalf of the consortium must submit to the Commission, by electronic means and by mail,<sup>210</sup> within 60 calendar days following the date of reception of the last payment of the Commission the following report<sup>211</sup> (third paragraph of Article 7 of the core-contract and fourth and fifth paragraphs of Article II.7 of the Annex II (General conditions));

- a **report on the distribution of the Community financial contribution between contractors made after the end of the project**<sup>212</sup>

For project with a single reporting period, covering the whole duration of the indirect action, only one version of the reports for the whole period, integrating the information required for periodic reports and final reports, is to be provided by the coordinator on behalf of the consortium.

#### 3.2.3.1.2- Audit certificates

It should be clarified that **an audit certificate is a certification of the costs** claimed under the project. It is **not an audit** that the Commission may launch at any time and up to 5 five years after the end of the project (last sentence of Article II.26 of Annex II (General conditions) to the FP6 model contract)<sup>213</sup>.

The audit certificate is a document provided by external auditor (or in the case of public body it may be provided by a competent public officer) certifying that the costs claimed during a specific period meet the contractual requirements established by the FP6 contract.

The Commission has the right to conduct its own audits, either by using its own services or any representative authorised by it.

The submission of an audit certificate does not waive this right of the Commission to carry out audits.

**Each contractor continues to remain responsible** to the Commission for the costs it has claimed even after payment by the Commission and even after submission of an audit certificate (last sentence of Article II.26 of Annex II (General conditions) to the FP6 model contract)<sup>214</sup>.

#### 3.2.3.1.2.1- General purpose of an audit certificate

<sup>210</sup> See 3.2.1.4.

<sup>211</sup> Except for Financial Statement per Activity (Forms C) which are a part of the contract (Annex VI), the layout and detailed content of this report will be provided in Commission guidance notes, and especially in the “Management of FP6 Projects Guidelines”.

<sup>212</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (d).

<sup>213</sup> FP6 model contract – Annex II – Article II.26 – last sentence:

*“Certification by external auditors according to this Article does not diminish the liability of contractors according to this contract nor the rights of the Community arising from Article II.29 [Controls and audits].”*

<sup>214</sup> See footnote n°213.

**At least one audit certificate per contractor covering the whole duration of an indirect action must be provided for projects supported through a Grant to the Budget or a Grant for Integration** (indents (a) and (c) of the first paragraph of Article 14 of the RP).

*1. In accordance with Annex III to the Sixth Framework Programme, and within the limits of the Community framework for State aid for research and development, the Community financial contribution may take the following forms:*

*(a) For networks of excellence, it shall take the form of a fixed grant for integration on the basis of the joint programme of activities. The amount of that grant shall be calculated taking into account the degree of integration, the number of researchers that all participants intend to integrate, the characteristics of the field of research concerned and the joint programme of activities. It shall be used to complement the resources deployed by the participants in order to carry out the joint programme of activities.*

*This grant shall be paid out on the basis of results, following the ongoing execution of the joint programme of activities, and on condition that its expenses, which are to be certified by an external auditor, or in the case of public bodies, a competent public officer, are greater than the grant itself.*

*(...)*

*(c) For integrated projects and the other instruments, except for those covered by points (a) and (b) and indirect actions covered by Article 9(2)(b), it shall take the form of a grant to the budget, calculated as a percentage of the budget established by the participants to carry out the indirect action, adapted according to the type of activity and taking into account the cost model used by the participant concerned.”*

*The expenses needed to implement the indirect action shall be certified by an external auditor or, in the case of public bodies, a competent public officer.*”

The general purpose of an audit certificate is to give to the Commission reasonable assurance<sup>215</sup> that eligible costs (and, if relevant, the receipts) charged under the project are calculated and claimed by the contractors in accordance with the relevant legal and financial provisions of the FP6 legal texts, including contractual provisions.

**If an audit certificate is not provided, a financial statement approved by the Commission (Form C) can not lead to the requalification of the relevant part of the pre-financing as a settled payment<sup>216</sup>** (second paragraph of Article 180 of the IM, indents (a) and (c) of the first paragraph of Article 14 of the RP and the second paragraph of Article 8 of the core-contract of the FP6 model contract). That is, any subsequent payment after an initial pre-financing will be considered to be a further pre-financing unless an audit certificate is provided for that period.

### **Example:**

A consortium has received a first pre-financing of € 1.000.000 and the Commission has accepted its periodic reports and financial statements in the first

<sup>215</sup> Reasonable assurance is an accounting expression meaning a high degree of confidence that information is valid and unaltered.

<sup>216</sup> Subject to the results of any audit or review which may be carried out up to five years after the end of the project.

reporting period, in which a Community financial contribution of € 750.000, is justified. :

- if an audit certificate is provided by each contractor, the consortium is considered to have received:

**pre-financing of € 250.000 (1.000.000 – 750.000) and a settled payment of € 750.000.** For the next period the pre-financing can be increased in accordance with the contractual provisions but outstanding pre-financing will be taken into account for the next period.

- if no audit certificate is provided, the consortium is considered to have received:

**pre-financing of € 1.000.000** (of which € 750.000 are already accepted as eligible costs but are waiting for audit certificates to be declared as final payment). For the next period the pre-financing can be increased if the total amount of the pre-financing stays within the limits established by the FR, IM and the contract.

### 3.2.3.1.2.2- Auditors eligible to deliver audit certificates

An audit certificate can be delivered by (indents (a) and (c) of the first paragraph of Article 14 of the RP and the second and third paragraphs of Article II.26 of Annex II (General conditions) to the FP6 model contract):

- an **external auditor** ;
- or, for a public body a **public competent officer**<sup>217 & 218</sup>.

Each contractor has the freedom to choose any qualified external auditor, including its usual external auditor (second paragraph of Article II.26 of Annex II (General conditions) to the FP6 model contract)<sup>219</sup>, provided that it meets the cumulative following professional requirements:

- the external auditor must be **independent** from the contractor;

The auditor's independence is usually defined as independence from the audited contractor "in fact and/or in appearance".

It is the quality which permits the auditor to apply unbiased judgement and objective consideration to established facts in arriving at an opinion or a decision. Independence means that the auditor's work is carried out without direction or interference of any kind from the contractor concerned.

In the case of public bodies:

<sup>217</sup> A public body, as established in paragraph 21 of article II.1 of the Annex II (General conditions) to the FP6 model contract, means:

*“a public sector body, or a legal entity governed by private law with a public-service mission providing adequate financial guarantees.”*

<sup>218</sup> Public bodies have the choice between an external auditor or a public competent officer.

<sup>219</sup> FP6 model contract – Annex II – Article II.26 – second paragraph:

*“Each contractor is free to choose any qualified external auditor, including its usual external auditor, provided that it meets the cumulative following professional requirements:*

*a) the external auditor must be independent from the contractor;*

*b) the external auditor must be qualified to carry out statutory audits of accounting documents in accordance with the 8th Council directive 84/253/EEC of 10 April 1984 or similar national regulations.”*

- a preliminary condition should be that the public competent public officer selected has not been involved in any way in the processing of the Financial Statement per Activity (Form C).
- If "in fact and/or in appearance", the auditor is not independent from the contractor concerned (example of an internal auditor who is an official of the contractor concerned), its independence may nevertheless be established by the relevant national authorities.

The external auditor must be **qualified to carry out statutory audits of accounting documents**:

- in accordance with the 8th Council Directive 84/253/EEC of 10 April 1984<sup>220</sup> or similar national regulations.
- Public bodies having opted for a competent public officer must prove that relevant national authorities have established the legal capacity of that competent public officer to carry out audits of the public body (third paragraph of Article II.26 of Annex II (General conditions) to the FP6 model contract)<sup>221</sup>.

The Commission expects results of high professional level when relying on the certification of costs by such auditors.

As a third party to the contract, the external auditor has a contractual relationship only with the contractor. It does not have a contractual relationship with the Commission, and the Commission will not intervene in any dispute between the auditor and the contractor concerned.

However, as a subcontract covered by the management activity, the other contractual obligations relating to subcontracting apply (except for the choice of the auditor).

A list of independent auditors and information about audits in Member States and candidate countries can be found at the following internet address:  
[www.fee.be/members/countries.htm](http://www.fee.be/members/countries.htm)

### 3.2.3.1.2.3- Periodicity of submission of an audit certificate

The periodicity of submission of the audit certificate for each contractor (along with its periodic reports and including its Form C) is determined by the second paragraph of Article 7 of the core-contract of the FP6 model contract.<sup>222</sup> (see also

<sup>220</sup> [OJ L126; 12.05.1984; p.20]. See Annex 6.

<sup>221</sup> FP6 model contract – Annex II – Article II.26 – third paragraph:  
“A contractor that is a public body may opt for a competent public officer to provide an audit certificate, provided that the relevant national authorities have established the legal capacity of that competent public officer to audit that public body.”

<sup>222</sup> FP6 model contract – Core-contract – Article 7 – second paragraph:

“[Option 1 : applicable to IPs and NoEs :Reports referred to in Article II.7.3 covering each period shall be submitted at the latest 45 days after the end of each reporting period]

[Option 2 (applicable to other instruments): Reports referred to in Article II.7.3 shall be submitted at the latest 45 days after the end of the following periods<sup>(\*)</sup>:

P(x) covering reporting periods from P1 to P(x)

P(y) covering reporting periods from P(x+1) to P(y)

first sentence of the third paragraph of Article II.7 of Annex II (General conditions) of the model contract)<sup>223</sup>.

**An audit certificate per contractor is always provided at the time of submission of the periodic reports and always covers one or more reporting periods. However, it is not necessarily required for each reporting period. This aspect depends on the type of instrument<sup>224</sup> and possibly any special clause in the contract.**

Even though an audit certificate may not be required for a specific period, **an audit certificate must always be provided by each contractor where the Community financial contribution requested by that contractor in its Form C exceeds € 750,000 for that period** (indent (a)(i) of the second subparagraph of the second paragraph, the last paragraph of Article 180 of the IM<sup>225</sup> and the second sentence of the third paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)<sup>226</sup>.

#### 3.2.3.1.2.4- Scope and content of an audit certificate

An audit certificate is delivered from the external auditor (or the competent public officer) to the attention of the contractor (not to the attention of the Commission).

An audit certificate will certify (first paragraph of Article II.26 of Annex II (General conditions) to the FP6 model contract)<sup>227</sup>:

- that the total eligible costs declared by the contractor in Box 2 of one (or several) Form(s) C comply with the following cumulative conditions:
  - they are determined according to the relevant cost reporting model for which this type of legal entity is eligible;

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*P(z) covering reporting periods from P(y+1) to P(z)*

*P(last) covering reporting periods from P(n+1) to the last reporting period of the project “*

*(\*)Audit certificates can be requested for any appropriate period depending on the duration of the project, its nature and the estimated budget. However, in certain cases audit certificates are obligatory (where the EC contribution requested by a contractor exceeds €750,000.)*

<sup>223</sup> FP6 model contract – Annex II – Article II.7 – third paragraph – first sentence:

*The consortium shall submit the audit certificates provided by each contractor in conformity with Article II.26 [Audit certificates] for each period for which the audit certificate is required.”*

<sup>224</sup> See 3.2.3.2.

<sup>225</sup> IM: Part one – Title VI – Article 180 – Second paragraph – second subparagraph:

*“An external audit shall be compulsory:*

*(a) in the case of grants for an action, in respect of the following payments:*

*(i) pre-financing or interim payments the sum of which exceeds EUR 750 000 per financial year and per agreement;”*

IM: Part one – Title VI – Article 180 – Last paragraph:

*“In the case of an agreement linking the Commission and a number of beneficiaries, the thresholds referred to in points (a) and (b) of the second subparagraph shall apply to each beneficiary.”*

<sup>226</sup> FP6 model contract – Annex II – Article II.7 – third paragraph – second sentence:

*“Even though an audit certificate is not required for a specific period, an audit certificate must be provided by each contractor where the Community financial contribution requested by that contractor exceeds € 750,000 for that period.”*

<sup>227</sup> FP6 model contract – Annex II – Article II.26 – first paragraph:

*“For each period for which an audit certificate is required, each contractor shall provide an audit certificate prepared and certified by an external auditor, certifying that the costs incurred during that period meet the conditions required by this contract. The certificate should expressly state the amounts that were subject to verification. Where third parties’ costs are claimed under the contract, such costs shall be audited in accordance with the provisions of this Article.”*

- they fulfill the definition of eligible costs<sup>228</sup>, except for the requirement of necessity in the allocation of resources by the contractor;

One of the conditions of eligible costs is that they must be actual. Actual means real costs. Generally, resources made available from third parties to a contractor will be certified by that contractor's auditor. Where actual costs are not available at the time of establishment of the audit certificate. However, in certain cases, where the costs of a third party are to be reimbursed any necessary adjustments must be reported in the Financial Statement for the subsequent reporting period<sup>229</sup>. For the last reporting period, only actual costs can be declared.

For the two cost reporting models that incorporate a flat rate contribution deemed to cover indirect eligible costs (FCF and AC), the auditor must certify that the correct rate has been used and that it has been applied correctly.

Eligible costs incurred by third parties identified in Annex I<sup>230</sup> to the contract may be certified:

- ✓ either by their own external independent auditor;
- ✓ or by the auditor of the contractor concerned.

The rules applying for the contractor relating to the calculation and payment of the grant (especially those concerning eligible costs and audit certificates) apply also for costs incurred by those third parties.

As a consequence, one or more audit certificates may be attached to one single Form C.

- the total amount of receipts declared by the contractor in Box 3 Form(s) C;
- the total amount of interest yielded by the pre-financing declared for the relevant period by the **coordinator** in Box 4 of Form(s) C;
- the relevant basis for the conversion rate used of EURO
  - either the conversion rate on the date the actual costs were incurred
  - or, the rate applicable on the first day of the month following the end of reporting period
- the price paid by the contractor for the audit certificate in Box 6 of Form C.

The certification must be signed (signature and stamp) and dated by the external auditor (or competent public officer).

By certifying the above mentioned elements, the auditor confirms that the principles and factors concerning the quality of information are fulfilled and that the Financial Statement gives a true and fair view of the costs claimed.

There is no standard format for an audit certificate. However, as far as possible, the external auditor or public competent officer should follow the model proposed by the Commission in Annex 7 (6.7) to these guidelines.

<sup>228</sup> See especially Part 2.

<sup>229</sup> See adjustment line in Form C.

<sup>230</sup> See 2.1.2.3. Those third parties are not subcontractors.

An audit certificate should be delivered in one of the official languages of the European Union<sup>231</sup>. The external auditor must attach a certified translation in one of these languages, preferably in English, where an audit certificate is not provided in one of these languages.

#### 3.2.3.1.2.5- Reimbursement of the price of an audit certificate

**The price of an audit certificate (excluding VAT) is a direct eligible cost under the “Management of the consortium activities”** (second subparagraph of the first paragraph of Article II.26<sup>232</sup> and paragraph 4 of Article II.2 of Annex II (General provisions) to the FP6 model contract).

If the audit certificate has been provided by an external auditor or a competent public officer from an organisation other than the contractor, it is also considered as a subcontract. For contractors using AC or FCF cost models, they may not apply the flat rate to these costs.

#### 3.2.3.2- Specific provisions

##### 3.2.3.2.1- Reporting periods

##### 3.2.3.2.1.1- Specific provisions for Integrated Projects and Networks of Excellence

For Integrated Projects and Networks of Excellence, the reporting periods mentioned in the FP6 model contract are always twelve months, except for the last reporting period:

- If the last reporting period is less than or equal to six months, it must be added to the penultimate reporting period. This means that the last period will be greater than twelve months and less than or equal to eighteen months.
- If the last reporting period is greater than six months, it is kept as a separate reporting period.

Note that any Integrated Project lasting eighteen months or less has only one reporting period.

The practical application of this principle is provided in the following examples:

- **Example n°1:**

- ✓ Hypothesis:

- An Integrated Project (or a Network of Excellence) has a duration of 60 months.

<sup>231</sup> The 11 official languages in 2003 are English, French, German, Spanish, Italian, Portuguese, Greek, Swedish, Finnish, Danish and Dutch.

<sup>232</sup> FP6 model contract – Annex II – Article II.26 – first paragraph – second subparagraph:  
*“The cost of this certification is an eligible cost under the activity relating to Management of the consortium.”*

✓ Determination of reporting periods:

The duration is divided into five periods of 12 months.

Article 6 of the core-contract will state:

**Article 6 – Reporting periods**

The *project* is divided into reporting periods of the following duration:

- P1: from month 1 to month 12
- P2: from month 13 to month 24
- P3: from month 25 to month 36
- P4: from month 37 to month 48
- P5: from month 49 to month 60

▪ **Example n°2:**

✓ Hypothesis:

An Integrated Project (or a Network of Excellence) has a duration of 67 months.

✓ Determination of reporting periods:

The duration is divided into five periods of 12 months + a period of 7 months.

Article 6 of the core-contract will state:

**Article 6 – Reporting periods**

The *project* is divided into reporting periods of the following duration:

- P1: from month 1 to month 12
- P2: from month 13 to month 24
- P3: from month 25 to month 36
- P4: from month 37 to month 48
- P5: from month 49 to month 60
- P6: from month 61 to month 67

▪ **Example n°3:**

✓ Hypothesis:

An Integrated Project (or a Network of Excellence) has a duration of 65 months.

✓ Determination of reporting periods:

The duration is divided into four periods of 12 months + a period of 17 months.

Article 6 of the core-contract will state:

**Article 6 – Reporting periods**

The *project* is divided into reporting periods of the following duration:

- P1: from month 1 to month 12
- P2: from month 13 to month 24
- P3: from month 25 to month 36
- P4: from month 37 to month 48
- P5: from month 49 to month 65

▪ **Example n°4:**

✓ Hypothesis:

An Integrated Project has a duration of 18 months.

✓ Determination of reporting periods:

Article 6 of the core-contract will state:

**Article 6 – Reporting periods**

The *project* is divided into reporting periods of the following duration:

- P1: from month 1 to month 18

It is possible that by means of a special clause (special clause n° 32 can be found in Annex 6.9) to the contract, the annual audit certificate required for Integrated Projects and Networks of Excellence may be required at different periods (i.e. after two years, at the end of the project) rather than annually.

3.2.3.2.1.2- Specific provisions for other instruments

For other instruments, the duration of the reporting periods mentioned in Article 6 of the core-contract is determined during the negotiation phase between contractors and Commission services and based on the project execution and expected milestones.

However, it is recommended, as far as possible:

- to avoid reporting periods of less than 6 months;
- to establish reporting periods equal to multiples of 6 months (12,18,24) (except for the last reporting period).

3.2.3.2.2- Additional reports (other than audit certificates) for Integrated Projects and Networks of Excellence

- **In addition to the above mentioned periodic reports the coordinator of an Integrated Project, on behalf of the consortium, must also submit an**

**updated implementation plan.** (first paragraph of Article III.3<sup>233</sup> and the second paragraph of Article III.1<sup>234</sup> of Annex III (Specific provisions) for Integrated Projects to the FP6 model contract) This detailed implementation plan must provide a detailed description of the implementation plan for the eighteen months<sup>235</sup> following the twelve-month period covered by the periodic reports. It must also include an estimate of eligible costs broken down by contractor and by activity over that period. If relevant, a revision of the overall implementation plan may also be added.

The updated implementation plan must be sent to the Commission by electronic means and by mail<sup>236</sup> within 45 calendar days following the end of each reporting period identified in Article 6 of the core-contract.

- **In addition to the above mentioned periodic reports the coordinator of a Network of Excellence, on behalf of the consortium, must also submit an updated joint programme of activities** (first paragraph of Article III.4<sup>237</sup> and the third paragraph of Article III.1<sup>238</sup> of Annex III (Specific provisions) for Networks of Excellence to the FP6 model contract). This detailed joint programme of activities must provide a detailed description of the work to be carried out for the eighteen months<sup>239</sup> following the twelve-month period covered by the periodic reports above. In addition, it should provide a revised set of performance indicators. If relevant, a revision of the outline joint programme of activities may also be added.

<sup>233</sup> FP6 model contract – Annex III for IP – Article III.3 – first paragraph:

*“The implementation plan shall be updated annually. These annual updates may concern only the detailed implementation plan. They shall be submitted in accordance with the principles foreseen in Article II.7 for the submission of reports.”*

<sup>234</sup> FP6 model contract – Annex III for IP – Article III.1 – second paragraph:

**“Implementation plan:** means the description of the work to be carried out in order to implement the project as set out in Annex I. It consists of two parts:

- **a detailed implementation plan:** providing a detailed description of the work to be carried out over the eighteen-month period covered by one period as defined in Article 6 and the first six months of the following period, together with a detailed financial plan for the same eighteen-month period, containing estimates of eligible costs broken down by contractor and by activity.

- **an outline implementation plan:** providing an outline description of the work to be carried out throughout the duration of the project, including a nonconfidential action plan for the promotion of gender equality within the project.”

<sup>235</sup> It must be noted that, by definition, the final updated detailed implementation plan (submitted for the penultimate reporting period) may cover a shorter period, according to the periods defined in article 6 of the core-contract.

<sup>236</sup> See 3.2.1.4.

<sup>237</sup> FP6 model contract – Annex III for NoE – Article III.4 – first paragraph:

*“The joint programme of activities shall be updated annually. These annual updates may concern only the detailed joint programme of activities. They shall be submitted in accordance with the principles foreseen in Article II.7 for the submission of reports.”*

<sup>238</sup> FP6 model contract – Annex III for NoE – Article III.1 – third paragraph:

**“Joint programme of activities:** means the description of the work to be carried out in order to implement the project as set out in Annex I. It consists of two parts:

- **a detailed joint programme of activities:** providing a detailed description of the work to be carried out over the eighteen-month period covered by one reporting period as defined in Article 6 and the first six months of the following period;

- **an outline joint programme of activities:** providing an outline description of the work to be undertaken throughout the duration of the project, including a non confidential action plan for the promotion of gender equality within the project.”

<sup>239</sup> It must be noted that, by definition, the final updated detailed joint programme of activities (submitted for the penultimate reporting period) may cover a shorter period, according to the periods defined in article 6 of the core-contract.

The updated implementation plan must be submitted to the Commission by electronic means and by mail<sup>240</sup> within 45 calendar days following the end of each reporting period mentioned in Article 6 of the core-contract.

- Integrated Projects and Networks of Excellence must also provide an action plan for the promotion of gender equality within the project (as part of their overall implementation plan or joint programme of activities) and report on its progress at regular intervals and at the end of the project.
- In addition, as for all instruments, each consortium must report on the actions it has taken to engage with the public to help spread awareness and the results of the project.
- **Annex 6.8 provides an overview of the periodic and final reports requested per type of instrument.**
- **In addition to the approval of the above mentioned periodic reports** the Commission services shall arrange for a **review** of the work carried out under the project over the period concerned and shall examine the proposed update of the implementation plan/joint programme of activities. (Article III.5 of Annex III (Specific provisions) for Networks of Excellence and Article III.4 of Annex III (Specific provisions) for Integrated projects to the FP6 model contract)

The **annual review** assesses the progress of the project and the prospects for achieving its overall objectives.

The Commission communicates to the consortium the results of the review and any recommendations. The consortium is to take into account these recommendations and submit a revised implementation plan/ joint programme of activities if necessary.

### 3.2.3.2.3- Periodicity of submission for audit certificates

#### 3.2.3.2.3.1- Integrated Projects and Networks of Excellence

Each contractor of an Integrated Project or a Network of Excellence must provide an audit certificate for each reporting period mentioned in Article 6 of the core-contract. (second paragraph of article 7 of the core-contract (Option 1)<sup>241</sup> and first sentence of the third paragraph of Article II.7<sup>242</sup> of Annex II (General conditions) to the FP6 model contract)

As for the periodic reports, the coordinator of an Integrated Project or a Network of Excellence must submit one (or several)<sup>243</sup> audit certificates **for each contractor** to the Commission by electronic means and by mail<sup>244</sup> within 45 calendar days following the end of each reporting period.

<sup>240</sup> See 3.2.1.4.

<sup>241</sup> FP6 model contract – Core-contract – Article 7 – second paragraph:  
*“[Option 1 : applicable to IPs and NoEs :Reports referred to in Article II.7.3 covering each period shall be submitted at the latest 45 days after the end of each reporting period]”*

<sup>242</sup> FP6 model contract – Annex II – Article II.7 – third paragraph – first sentence:  
*“The consortium shall submit the audit certificates provided by each contractor in conformity with Article II.26 [Audit certificates] for each period for which the audit certificate is required.”*

<sup>243</sup> See 3.2.3.1.2.

<sup>244</sup> See 3.2.1.4.

In certain specific cases a special clause in the contract may permit the submission of audit certificates on the basis of different periods.

### 3.2.3.2.1.2- Specific provisions for other instruments

For other instruments, the timing of submission of an audit certificate per contractor is at the discretion of the Commission services. (second paragraph of Article 7 of the core-contract (Option 2)<sup>245</sup> and first sentence of the third paragraph of Article II.7<sup>246</sup> of Annex II (General conditions) to the FP6 model contract)(**except for those cases where the contractor requests more than € 750,000 for the period**).

The coordinator must submit, on behalf of the consortium, one (or several)<sup>247</sup> audit certificates for each contractor to the Commission by electronic means and by mail<sup>248</sup> within 45 calendar days following the end of each period mentioned in the second paragraph of Article 7 of the core-contract.

In this context:

- there must be at least one audit certificate per contractor covering the whole duration of the project provided at the last reporting period (indents (a) and (c) of the first paragraph of Article 14 of the RP<sup>249</sup>) ;
- it is recommended to require an audit certificate from each contractor in at least two reporting periods for projects that last more than 24 months.

The following **example** provides three possibilities for the second paragraph of Article 7 of the core contract for the same STReP.

#### ▪ **Hypothesis**

A STReP project lasts of 36 months.

The reporting periods in Article 6 of the core-contract are:

- P1: from month 1 to month 12
- P2: from month 13 to month 24
- P3: from month 25 to month 36

#### ✓ **Submission periods for audit certificates**

##### ❖ *Possibility n°1 for the second paragraph of article 7*

Reports referred to in Article II.7.3 shall be submitted at the

<sup>245</sup> FP6 model contract – Core-contract – Article 7 – second paragraph:

“[Option 2 (applicable to instruments other than IPs and NoEs): Reports referred to in Article II.7.3 shall be submitted at the latest 45 days after the end of the following periods:

- $P(x)$  covering reporting periods from P1 to  $P(x)$
- $P(y)$  covering reporting periods from  $P(x+1)$  to  $P(y)$
- $P(z)$  covering reporting periods from  $P(y+1)$  to  $P(z)$
- $P(\text{last})$  covering reporting periods from  $P(n+1)$  to the last reporting period of the project “

<sup>246</sup> See footnote n°242.

<sup>247</sup> See 3.2.3.1.2.

<sup>248</sup> See 3.2.1.4.

<sup>249</sup> See 1.2.2.2 and 1.2.2.3.

latest 45 days after the end of the following periods:

- P1
- P2
- P3

In this case, an audit certificate per contractor is requested for each reporting period. Therefore, three audit certificates per contractor during the life of the project.

❖ *Possibility n°2 for the second paragraph of Article 7*

Reports referred to in Article II.7.3 shall be submitted at the latest 45 days after the end of the following periods:

- P1
- P3 covering reporting periods from P2 to P3

In this case, an audit certificate per contractor is requested:

- ◆ For the first reporting period (P1);
- ◆ And for the last reporting period (P3) covering both the second (P2) and the last reporting period (P3).

That is two audit certificates per contractor during the life of the project.

❖ *Possibility n°3 for the second paragraph of Article 7*

Reports referred to in Article II.7.3 shall be submitted at the latest 45 days after the end of the following periods:

- P2 covering reporting periods from P1 to P2
- P3

In this case, an audit certificate per contractor is requested:

- ◆ For the second reporting period (P2), covering both the first (P1) and the second reporting period (P2).
- ◆ For the last reporting period (P3)

That is two audit certificates per contractor.

### 3.2.3.2.4- Maximum reimbursement rates of eligible costs

#### 3.2.3.2.4.1- Specific provisions for Networks of Excellence

- The eligible costs for each reporting period will be covered by up to 100% by the grant for integration only if they are at least equal to the annual amount of the grant specified in the joint programme of activities. (in Annex I to the contract) (second indent of the second subparagraph of the second paragraph of Article III.2 of Annex III<sup>250</sup> (Specific provisions) for the Networks of Excellence to the FP6 model contract)
- The total eligible costs incurred in implementing the joint programme of activities over the full duration of a Network of Excellence must exceed the maximum Community financial contribution mentioned in the second paragraph of article 5 of the core-contract (third subparagraph of the second paragraph of Article III.2<sup>251</sup>).

If this is not the case, the payment for the last reporting period is limited to 95% of the eligible costs incurred in that period.

#### 3.2.3.2.4.2- Specific provisions for Specific Support Actions

*“For Specific Support Actions, where the total eligible costs claimed are lower than the grant foreseen in the contract, the reimbursement rate shall be 95% of the eligible costs, without prejudice to the limitations per activity established in this Article.”* (fourth paragraph of Article II.25 of Annex II (General conditions) to the FP6 model contract):

If the total eligible costs are inferior to the maximum Community financial contribution mentioned in the second paragraph of Article 5 of the core-contract, the Community financial contribution is equal to 95% of the total eligible costs and not to 100%.

### 3.2.3.3- Conditions for payment(s)

Taking into account all the relevant principles and specific provisions mentioned above, the conditions for payment of the grant are:

<sup>250</sup> FP6 model contract – Annex III for NoE – Article III.2 – second paragraph – second subparagraph – second indent:  
*“The Commission shall pay the Community financial contribution in respect of a completed period provided that the following conditions are fulfilled:*  
 (...)

*- that eligible costs, calculated in accordance with Part B of Annex II, of at least the Community financial contribution for the completed period were incurred in implementing the joint programme of activities.”*

<sup>251</sup> FP6 model contract – Annex III for NoE – Article III.2 – second paragraph – third subparagraph:  
*“At the end of the project, the eligible costs incurred in implementing the joint programme of activities over the full duration of the project must exceed the grant for integration. If this is not the case, the payment for the last scientific period shall be limited to 95% of the eligible costs incurred in that period.”*

### 3.2.3.3.1- Grant for Integration

The Community financial contribution to Grants for Integration (only Networks of Excellence) is paid to the coordinator on behalf of the consortium as follows:

- **A first pre-financing is provided to the coordinator on behalf of the consortium within 45 calendar days** (indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract) following one of the below:
- the date of entry into force of the contract, **or** ;
- the date the Commission is informed of the accession of the last contractor required to constitute the minimum number of participants established by the Rules for Participation, and as detailed in the call for proposals to which the project is related, **or**;
- the date the Commission is informed of the last date of accession to the contract of all the contractors identified in Article 1.2 of the core-contract.

The choice of one of the above mentioned possibilities is at the discretion of the Commission services. The consortium will be informed during the negotiation phase and the provisions will be included in the contract.

Usually the amount of the **first pre-financing will be 85%** of the estimated grant requested by the consortium **for its joint programme of activities during the first twelve months of the project and the first half of the next period**. If this percentage of the first pre-financing is less then it will be established during negotiations. In any event the percentage will be identified in indent (a) of the second paragraph of Article 8 of the contract.

The total amount of pre-financing can not exceed 85% (Article 182 of the IM especially paragraphs 2, 3 and 5) of the total Community financial contribution for the project (or 80% if the financial collective responsibility of the consortium does not cover the Community financial contribution and no bank guarantees have been provided). However, this situation will usually only arise towards the very end of the project.

- For each period, the Community financial contribution is paid (indent (b) of the second paragraph of Article 8, the first paragraph of Article 7 and Article 6 of the core-contract and the first paragraph of Article II.7 and Article II.8 of Annex II (General conditions) to the FP6 model contract) as follows:
- the coordinator must submit to the Commission, on behalf of the consortium, by electronic means and by mail within 45 calendar days following the end of the each period (mentioned in Article 6 of the core-contract and always 12 months for NoEs) the following reports:
- a **periodic activity report** covering all the work, objectives, results and conclusions, and an update of the plan for using and disseminating the knowledge (if appropriate), including a summary of all these aspects;
- a **periodic management report** covering the reporting period including:
- a **justification of the resources deployed** by each contractor, linking them to activities implemented and justifying their necessity;
- **the Forms C (Financial statement per activity)** set out in Annex VI to the contract, **provided by each contractor** for that period;

- the **audit certificates** attached to each Form C;
- a **summary financial report** consolidating the claimed costs of all the contractors in an aggregate form for the period based on the information provided in Form C by each contractor
- any **supplementary reports** required by any Annex of the contract, particularly the technical Annex (Annex I)
- a **report on the distribution of the Community financial contribution between contractors** made during that reporting period.
- The Commission evaluates the reports submitted by the consortium in accordance with the provisions of the contract.

This evaluation will normally be completed within 45 calendar days following the receipt of the requested reports. However, the Commission services may continue to review the reports during the period up to 90 days after receipt.

- If the reports and financial statements are approved, the **annual review indicates that the project is making satisfactory progress** towards achieving its objectives, particularly regarding durable integration, **and the eligible costs incurred exceed the annual value of the grant for integration**, the Community financial contribution is paid. (Article III.2 of Annex III to the Network of Excellence contract)

In this case,

- all or part of the pre-financing is requalified as a definitive payment (settled payment - subject to the results of any audit or review which may be carried out up to five years after the end of the project);
- if only part of the pre-financing is requalified as a definitive payment then the difference is added to the pre-financing for the next period (within the limits set for that period of 85% of the next period plus the first half of the subsequent period);

Within 60 calendar days after receipt of the payment for the period, the coordinator must submit to the Commission a **report on the distribution of the Community financial contribution between contractors** (indent (d) of the fourth paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)

- For the **final period**, in addition to the reports required for the last reporting period, the **final reports** covering the whole project must be submitted. In addition, for Networks of Excellence the final report on the gender action plan, must be submitted:
- a **final activity report** covering all the work, objectives, results and conclusions, and the final plan for using and disseminating the knowledge, the report on actions taken to further public awareness of the project and its results, including a summary of all these aspects;
- a **final management report** covering the full duration of the project including:

- a **summary financial report consolidating the claimed costs** of each contractor, covering the whole duration of the project based on the information provided in their Forms C;
- any **supplementary final reports** required by any Annex of the contract, especially by the technical Annex (Annex I).

Within 60 calendar days after receipt of the outstanding balance of the Community financial contribution, the coordinator must submit to the Commission a **report on the distribution of the Community financial contribution between contractors** (indent (d) of the fourth paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)

For Networks of Excellence, if the eligible costs of the joint programme of activity have not exceeded the grant for integration, the payment by the Commission for the last period will be equal to only 95% of the eligible costs incurred for that period. (Article III.2.2 of Annex III to the contract for Networks of Excellence: "At the end of the *project*, the eligible costs incurred in implementing the *joint programme of activities* over the full duration of the *project* must exceed the *grant for integration*. If this is not the case, the payment for the last reporting period shall be limited to 95% of the eligible costs incurred in that period.)

### 3.2.3.3.2- Grant to the Budget

#### 3.2.3.3.2.1- Project with one single reporting period

The Community financial contribution to Grants to the Budget with one single reporting period, is paid to the coordinator on behalf of the consortium as follows:

- **A single pre-financing is transmitted to the coordinator on behalf of the consortium within 45 calendar days** (indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract)<sup>252</sup> following one of the below:
  - the date of entry into force of the contract, **or** ;
  - the date the Commission is informed of the accession of the last contractor required to constitute the minimum number of participants established by the Rules for Participation, and as detailed in the call for proposals to which the project is related, **or**;
  - the date the Commission is informed of the last date of accession to the contract of all the contractors identified in Article 1.2 of the core-contract.

The choice of one of the above mentioned possibilities is at the discretion of the Commission services. The consortium will be informed during the negotiation phase and the provisions will be included in the contract.

**The amount of the pre-financing is established during negotiations and is mentioned in indent (a) of the second paragraph of Article 8** of the core-contract of the FP6 model contract.

<sup>252</sup> FP6 model contract – Core contract – Article 8 – second paragraph - Option A – indent (a):  
 “[amount of XXXX Euro] pre-financing up to [80% to 85%] of the estimated Community financial contribution indicated in the table of estimated breakdown of costs for this period in Annex I within 45 days following [the date of entry into force of the contract][the date of the accession of the last contractor required to constitute the minimum number of participants established by the Rules for Participation, and as detailed in the call for proposals to which the project is related][the last date of accession to the contract of all the contractors identified in Article 1.2]”.

This **pre-financing can not exceed 80%** (Article 182 of the IM<sup>253</sup> especially paragraphs 2, 3 and 5) **of the Community financial contribution identified in the second paragraph of Article 5** of the core-contract of the FP6 model contract. However, this percentage may be exceeded, **subject to the assessment and acceptance of the authorising officer responsible for the project, and taking into account the type of legal entities involved in the consortium if:**

- **the contractor(s) has(ve) lodged a bank guarantee.**
- **the contract imposes an obligation of financial collective responsibility on the part of the contractors of a sufficient level<sup>254</sup> to secure the protection of the Community financial interests.**
- **The contractor is a public body and in the judgment of the Commission authorising officer there is no need for a financial guarantee.**

The **percentage and total amount of pre-financing is established during negotiations and is mentioned in indent (a) of the second paragraph of Article 8** of the core-contract of the FP6 model contract.

- Special clauses (see special clauses 6 in Annex 6.9) may be foreseen in the contract that require certain contractors to provide a bank guarantee before the pre-financing is transmitted by the coordinator to that contractor or before the Commission provides the pre-financing for that contractor.
- The Community financial contribution is paid (indent (b) of the second paragraph of Article 8<sup>255</sup>, the first paragraph of Article 7<sup>256</sup> and Article 6<sup>257</sup> of the core-contract and the first<sup>258</sup> paragraph of Article II.7 and Article II.8 of Annex II (General conditions) to the FP6 model contract) as followed:
  - the coordinator must submit to the Commission, on behalf of the consortium, by electronic means and by mail<sup>259</sup> within 45 calendar days<sup>260</sup> following the end of the single reporting period<sup>261</sup> (mentioned in Article 6 of the core-contract) the following reports:

<sup>253</sup> See footnote n°169.

<sup>254</sup> For more information on the notion of sufficient level of financial collective responsibility of the contractors, see Part 4 of these guidelines (“Controls”).

<sup>255</sup> FP6 model contract – Core contract – Article 8 – second paragraph - Option A – indent (b):  
*“the outstanding balance shall be paid within 45 days following the approval by the Commission of the reports referred to in Article II.7. This payment shall be considered as final, subject to the results of any audit or review, which may be carried out pursuant to the provisions of Article II.29.”*

<sup>256</sup> See footnote n°172.

<sup>257</sup> See footnote n°173.

<sup>258</sup> See footnote n°174.

<sup>259</sup> See 3.2.1.4.

<sup>260</sup> It must be noted that, as established in the second sentence of the third paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility):  
*“this delay may be increased by 45 days at the request of the consortium”.*

<sup>261</sup> It must be noted that, as established in the third sentence of the third paragraph of article 7 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility):  
*“Where the work is completed before the end of the duration of the project, the related activity and financial reports shall cover the period up to that date.”*

- ✓ a **final activity report** covering all the work, objectives, results and conclusions, and the final plan for using and disseminating the knowledge, including a summary of all these aspects;
  - ✓ a **final management report** covering the full duration of the project including:
    - ❖ a **justification of the resources deployed** by each contractor, linking them to activities implemented and justifying their necessity;
    - ❖ **the Forms C (Financial statement per activity)** set out in Annex VI to the contract, **provided by each contractor** for that single period;
    - ❖ the **audit certificates** attached to each Form C;
    - ❖ a **summary financial report** consolidating the claimed costs of all the contractors in an aggregate form covering the entire duration of the project, and based on the information provided in Form C by each contractor
  - ✓ any **supplementary final reports** required by any Annex of the contract, especially by the technical Annex (Annex I)
  - ✓ a **report on the distribution of the Community financial contribution between contractors** made during that single reporting period.
- The Commission evaluates the reports submitted by the consortium in accordance with the provisions of the contract and especially Article II.8 of Annex II (General conditions) to the FP6 model contract.  
 This evaluation will normally be completed within 45 calendar days following the receipt<sup>262</sup> of the requested reports. However, the Commission services may continue to review the reports during the period up to 90 days after receipt<sup>263</sup>.
  - If the reports and financial statements are approved, the payment of the Community financial contribution is paid in accordance with the rules for payments of Grants which reimburse eligible costs (including any specific provisions) according to the type of instrument concerned<sup>264</sup>.

<sup>262</sup> The date of the receipt is established by the date of reception of the originals of the reports sent to the physical address of the Commission provided in article 11.1 of the core-contract of the FP6 model contract (except for actions to promote human resources and mobility). See also 3.2.1.4.

<sup>263</sup> FP6 model contract – Annex II – Article II.8 – third paragraph – first sentence:  
*“The Commission undertakes to evaluate all other reports submitted within 45 days of receipt thereof.”*

<sup>264</sup> See especially 3.2.3.1.

Therefore:

- ✓ all or part of the pre-financing is requalified as a definitive payment (final payment) ;
- ✓ and, where appropriate and justified, the outstanding balance (the difference between the Community financial contribution to accepted costs and the pre-financing received (taking into account any interest yielded by the pre-financing declared by the coordinator in its Form C) shall be paid to the coordinator, on behalf of the consortium, within 45 calendar days following approval<sup>265</sup>.

The payment of the Community financial contribution is considered as final, subject to the results of any audit or review which may be carried out up to five years after the end of the project<sup>266</sup>.

- Within 60 calendar days after receipt of the outstanding balance, the coordinator must submit to the Commission **a report on the distribution of the Community financial contribution between contractors** (indent (d) of the fourth paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)<sup>267</sup>.

#### 3.2.3.3.2.2- Project with several reporting periods

The Community financial contribution to a Grant to the Budget with several reporting periods is paid to the coordinator, on behalf of the consortium, as follows:

- **A first pre-financing is provided to the coordinator on behalf of the consortium within 45 calendar days** (indent (a) of the second paragraph of Article 8 of the core-contract of the FP6 model contract) following one of the below:
- the date of entry into force of the contract, **or** ;
- the date the Commission is informed of the accession of the last contractor required to constitute the minimum number of participants established by the Rules for Participation, and as detailed in the call for proposals to which the project is related, **or**;
- the date the Commission is informed of the last date of accession to the contract of all the contractors identified in Article 1.2 of the core-contract.

<sup>265</sup> From the date of reception of the requested reports to the date of the payment of the outstanding balance, there is a maximum delay of 90 calendar days (except in relevant case of suspension). Therefore, even if the delay for approval is exceeded, the total delay of 90 calendar days must be respected (it means a corresponding reduction of the delay for the payment).

<sup>266</sup> FP6 model contract – Annex II – Article II.29 – first paragraph – first sentence:

*“The Commission may, at any time during the contract and up to five years after the end of the project, arrange for audits to be carried out, either by outside scientific or technological reviewers or auditors, or by the Commission departments themselves including OLAF.”*

<sup>267</sup> FP6 model contract – Annex II – Article II.7 – fourth paragraph – indent (d):

*“a report on the distribution between contractors made after the end of the project of the Community financial contribution, which shall be submitted 60 days after receipt of the final tranche of the Community financial contribution to the consortium.”*

The choice of one of the above mentioned possibilities is at the discretion of the Commission services. The consortium will be informed during the negotiation phase and the provisions will be included in the contract.

Usually the amount of the **first pre-financing will be 85%** of the estimated costs to be incurred by the consortium **in its project during the first reporting period and the first half of the next period**. If this percentage of the first pre-financing is less then it will be established during negotiations. In any event the percentage will be identified in indent (a) of the second paragraph of Article 8 of the contract.

The total amount of pre-financing can not exceed 85% (Article 182 of the IM especially paragraphs 2, 3 and 5) of the total Community financial contribution for the project (or 80% if there is no financial collective responsibility in the instrument or the financial collective responsibility of the consortium does not cover the Community financial contribution and no bank guarantees have been provided). However, this situation will usually only arise towards the very end of the project.

- For each period, the Community financial contribution is paid (indent (b) of the second paragraph of Article 8, the first paragraph of Article 7 and Article 6 of the core-contract and the first paragraph of Article II.7 and Article II.8 of Annex II (General conditions) to the FP6 model contract) as follows:
  - the coordinator must submit to the Commission, on behalf of the consortium, by electronic means and by mail within 45 calendar days following the end of the each period (mentioned in Article 6 of the core-contract and always 12 months for NoEs) the following reports:
    - a **periodic activity report** covering all the work, objectives, results and conclusions, and an update of the plan for using and disseminating the knowledge (if appropriate), including a summary of all these aspects;
    - a **periodic management report** covering the reporting period including:
      - a **justification of the resources deployed** by each contractor, linking them to activities implemented and justifying their necessity;
      - **the Forms C (Financial statement per activity)** set out in Annex VI to the contract, **provided by each contractor** for that period;
      - the **audit certificates** attached to each Form C;
      - a **summary financial report** consolidating the claimed costs of all the contractors in an aggregate form for the period based on the information provided in Form C by each contractor.
    - any **supplementary reports** required by any Annex of the contract, particularly the technical Annex (Annex I).
    - a **report on the distribution of the Community financial contribution between contractors** made during that reporting period.
  - The Commission evaluates the reports submitted by the consortium in accordance with the provisions of the contract.

This evaluation will normally be completed within 45 calendar days following the receipt of the requested reports. However, the Commission

services may continue to review the reports during the period up to 90 days after receipt.

- If the reports and financial statements are approved, the Community financial contribution is paid. In this case,
- all or part of the pre-financing is requalified as a definitive payment (settled payment - subject to the results of any audit or review which may be carried out up to five years after the end of the project);
- if only part of the pre-financing is requalified as a definitive payment then the difference is added to the pre-financing for the next period (within the limits set for that period of 85% of the next period plus the first half of the subsequent period);

Within 60 calendar days after receipt of the payment for the period, the coordinator must submit to the Commission **a report on the distribution of the Community financial contribution between contractors** (indent (d) of the fourth paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)

For the **final period**, in addition to the reports required for the last reporting period, the **final reports** covering the whole project must be submitted. In addition, for Integrated Projects, the final report on the gender action plan must be submitted:

- a **final activity report** covering all the work, objectives, results and conclusions, and the final plan for using and disseminating the knowledge, and the report on actions taken to further public awareness of the project results, including a summary of all these aspects;
- a **final management report** covering the full duration of the project including:
- a **summary financial report consolidating the claimed costs of** each contractor, covering the whole duration of the project based on the information provided in their Forms C;
- any **supplementary final reports** required by any Annex of the contract, especially by the technical Annex (Annex I)

Within 60 calendar days after receipt of the outstanding balance, the coordinator must submit to the Commission **a report on the distribution of the Community financial contribution between contractors** (indent (d) of the fourth paragraph of Article II.7 of Annex II (General conditions) to the FP6 model contract)

### **3.2.4- Additional information relating to the payments (including pre-financing) of the Community financial contribution**

#### **3.2.4.1- Possibility of suspension**

- The deadline for payment<sup>268</sup> (established in Article 8 of the core-contract), may be suspended by notification to the consortium (Article II.28.8 of Annex II (General conditions) to the FP6 model contract) that one (or several) financial statement(s) per activity is(are) not acceptable<sup>269</sup>.

In this case, the payment delay is suspended until the date of reception of a corrected or revised financial statement per activity.

The Commission may suspend its payments at any time in the case of any contractor(s) failure to respect any contractual provision, particularly regarding the audit and control provisions in Article II.29 of Annex II. In such case, the Commission shall notify the contractor(s) directly by means of registered letter with acknowledgement of receipt<sup>270</sup>.

The Commission may suspend its payments at any time where there is a suspicion of irregularity committed by one or more contractor(s) in the performance of the contract. Only the portion of the payment destined for the contractor(s) suspected of irregularity will be suspended. The Commission shall notify the contractor(s) of the justification for the suspension of payment directly by means of registered letter with acknowledgement of receipt<sup>271</sup>.

- In addition, if a Network of Excellence project fails an annual review (Article III.6 of Annex III (Specific provisions) to the contract), the Commission services may propose to the consortium to continue the project for a further period of twelve months on the basis of the consortium's proposed joint programme of activities, but without further pre-financing and without any finalisation of payment of the Community financial contribution in respect of the previous period.

At the end of this further period, the Commission shall arrange a new review:

- if the project passes this review, the Commission shall pay the Community financial contribution for both previous periods and the contract will continue as if the suspension of pre-financing had not taken place;
- if the project again fails this review, the Commission shall terminate the contract.

<sup>268</sup> The payment must be made within 90 calendar days after the date of reception of the periodic or final reports, providing that those reports are complete.

<sup>269</sup> FP6 model contract – Annex II – Article II.28 – eight paragraph – first subparagraph:  
*“The periods identified in Article 8 regarding the delays for payment may be suspended by the Commission at any time by notification of the coordinator that the financial statement is not acceptable, either because it does not conform to the requirements of the contract or because it is not in conformity with the activity reports submitted for approval to the Commission. The delay for approval of the financial statement will be suspended until the submission of the corrected or revised version as requested and the balance of the delay for approval will start again upon receipt by the Commission of this information.”*

<sup>270</sup> FP6 model contract – Annex II – Article II.28 – eight paragraph – second subparagraph.

<sup>271</sup> FP6 model contract – Annex II – Article II.28 – eight paragraph – third subparagraph.

**3.2.4.2- Interest to be paid by the Commission in case of late payment**

In the event of late payment by the Commission<sup>272</sup> the contractor(s) may claim interest, within two months of receipt of the payment (seventh paragraph of Article II.28 of Annex II (General conditions) to the FP6 model contract).

Interest shall be calculated at the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, plus three and a half percentage points.

Interest shall be payable for the time elapsed between expiry of the payment deadline and the date of payment.

Date of payment is the date upon which the Commission's account is debited.

Any such interest payment is **not** considered as part of the financial contribution of the Community (established in the second paragraph of Article 5 of the core-contract).

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<sup>272</sup> The payment must be made within 90 calendar days after the date of reception of the periodic or final reports, providing that those reports are complete. If the Commission has indicated that one or more reports due are missing and/or one or more reports is not acceptable, the delay for payment is suspended until the corrected or mission document is provided.

## **4- CONTROLS**

**There are two kinds of control:**

- **Ex-ante controls** (before the signature of the contract) ;
- **Ex-post controls** (during and after the implementation of the project)

### **4.1- EX-ANTE CONTROLS**<sup>273</sup>

The purpose of ex-ante financial controls is to verify the financial capacity of the participants<sup>274</sup>. To verify the financial capacity of contractors, in certain cases and for certain types of participants, during contract negotiation, the Commission requires the provision of documents relating to the future contractor's legal and financial capacity. These documents may include an external audit report produced by an approved auditor that certifies the accounts of that contractor for the last financial year available and gives an assessment of its financial viability, audited financial accounts for the last three full financial years (certified profit and loss accounts and balance sheets) or financial information for the last full financial year for the coordinator.

#### **4.1.1- General principles**

- In general, the financial capacity of public bodies<sup>275</sup> (including international organisations) does not have to be verified, whether the instrument imposes collective financial responsibility or not. However, this is at the discretion of the Commission authorising officer. Verification of the “public body” status of an organisation may be required.
- For any other type of legal entity, the verification of its financial capacity (first, third and fifth indents of the fourth paragraph of Article 173 of the IM<sup>276</sup>, the second and third paragraphs and the first indent of the fourth paragraph of Article 176 of the IM<sup>277</sup>, Article 182 of the IM<sup>278</sup> and

<sup>273</sup> For details consult the FP6 Negotiation Guidance Notes for the Coordinators of the particular instrument in which you will participate.

<sup>274</sup> The tools necessary to establish the financial capacity of a contractor are identified in the FP6 Guidance Notes and the Contract Preparation Forms.

<sup>275</sup> See footnote n°217.

<sup>276</sup> IM: Part one – Title VI – Article 173 – fourth paragraph – first indent:

*“For actions where the cost to be financed exceeds EUR 300 000 and for operating grants of over EUR 75 000, the application shall be accompanied by an external audit report produced by an approved auditor. That report shall certify the accounts for the last financial year available and give an assessment of the financial viability of the applicant within the meaning of Article 176(2).”*

IM: Part one – Title VI – Article 173 – fourth paragraph – third indent:

*“In the case of agreements linking the Commission and a number of beneficiaries, those thresholds shall apply to each beneficiary.”*

IM: Part one – Title VI – Article 173 – fourth paragraph – fifth indent:

*“The authorising officer responsible may, depending on his analysis of management risks, waive that obligation for public bodies, secondary and higher education establishments, the international organisations referred to in Article 43, and beneficiaries who have accepted joint and several liability in the case of agreements with a number of beneficiaries. required to complete the proposed action or work programme unless specifically provided otherwise in the basic act.”*

<sup>277</sup> IM: Part one – Title VI – Article 176 – second paragraph:

the second and third paragraphs of Article 13 of the RP<sup>279</sup> and Article II.18 of Annex II (General conditions) to the FP6 model contract and provided that the contractor concerned is not in one of the situations listed in the first paragraph of article 93 of the FR)<sup>280</sup> depends on the following factors:

- For instruments **without financial collective responsibility** of the contractors;<sup>281</sup>
  - ✓ financial verification is an obligation where the Community financial contribution to the estimated eligible costs of a contractor is more than €300.000. In these cases the Commission must request an external audit report produced by an approved auditor that certifies the accounts of that contractor for the last financial year available and gives an assessment of its financial viability. The financial viability has to attest that the future contractor has stable and sufficient sources of funding to carry out the tasks throughout the period of its participation in the project and to provide any counterpart funding that may be necessary. The authorising officer is not required to request such information from public bodies (including those whose participation is guaranteed by a Member State/Associated State) and international organisations;
  - ✓ financial verification is at the discretion of the Commission authorising officer, depending on his or her analysis of management risks, where the Community financial contribution to a contractor is less than €300.000. In

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*“The applicant must have stable and sufficient sources of funding to maintain his activity throughout the period during which the action is being carried out or the year for which the grant is awarded and to participate in its funding. The applicant must have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act.”*

IM: Part one – Title VI – Article 176 – third paragraph:

*“Financial and operational capacity shall be verified in particular on the basis of an analysis of the supporting documents referred to in Article 173.”*

IM: Part one – Title VI – Article 176 – fourth paragraph – first indent:

*“The verification of financial capacity shall not apply to natural persons in receipt of scholarships nor to public bodies, nor to the international organisations referred to in Article 43.”*

<sup>278</sup> See footnote n°169.

<sup>279</sup> RP: Article 13 – second paragraph:

*“Technical implementation of the indirect action shall be the collective responsibility of the participants. Each participant shall also be liable for the use of the Community financial contribution in proportion to his share of the project up to a maximum of the total payments he has received:*

*Should a participant breach the contract and should the consortium not make good this breach, the Commission may, as a last resort and if all other approaches have been explored, hold the participants liable under the following conditions:*

*(a) Independently of the appropriate action it shall take against the defaulting participant, the Commission shall require the remaining participants to implement the indirect action.*

*(b) Should implementation be impossible or should the remaining participants refuse to comply with subparagraph (a), the Commission may terminate the contract and recover the Community financial contribution. When investigating the financial disadvantage, the Commission shall take into account the work already undertaken and results obtained, thereby establishing the debt.*

*(c) As regards the part of the debt established in accordance with subparagraph (b) that is owed by the defaulting participant, the Commission shall distribute it among the remaining participants, on the basis of each participant's share of the expenses accepted and up to the amount of the Community financial contribution each participant is entitled to receive.*

*Where a participant is an international organisation, a public body or a legal entity whose participation in the indirect action is guaranteed by a Member State or an associated State, that participant shall be solely responsible for its own debt and shall not bear the debt of any other participant.”*

RP: Article 13 – third paragraph:

*“Paragraph 2 shall not apply to indirect actions implemented by means of instruments such as specific research projects for SMEs, actions to promote and develop human resources and mobility and, when duly justified, specific support actions.”*

<sup>280</sup> For more information, see the FP6 Negotiation Guidelines.

<sup>281</sup> In addition to Actions to promote human resources and mobility, it concerns Specific Research Projects for SMEs (Cooperative and collective research) and some Specific Support Actions (when duly justified).

such cases a simplified balance sheet and profit and loss account is normally requested from all non-public body contractors, whatever the amount of the EC contribution;

However, in this last case, it is strongly recommended to verify the financial capacity of the coordinator.

Where the financial viability indicates there is a risk, a bank guarantee or other financial security may be requested.

In any event, a bank guarantee **must** be requested where the pre-financing received by a contractor (or several contractors) is more than 80% of the maximum Community financial contribution (mentioned in Article 5.2 of the core-contract). This is an obligation even though the results of the verification of its financial capacity are positive. The pre-financing may be increased to 85% if financial security is provided.

- For instruments **with financial collective responsibility** of the contractors but that is insufficient to cover the full protection of the Community financial interest<sup>282</sup>:
  - ✓ a full financial viability check is necessary for the coordinator.
  - ✓ financial verification is usually carried out where the non-public body contractors (including those whose participation is not guaranteed by a Member State/Associated State), include one entitled to receive more than 50% of the requested EC contribution to all non-public body contractors.
  - ✓ financial verification is required where the EC contribution for that contractor exceeds, by more than € 300,000, 50% of the requested EC contribution to all non-public body contractors. For such cases the Commission must request an external audit report produced by an approved auditor that certifies the accounts of that contractor for the last financial year available and gives an assessment of its financial viability. The financial viability has to attest that the future contractor has stable and sufficient sources of funding to carry out the tasks throughout the period of its participation in the project and to provide any counterpart funding that may be necessary.

Depending on the outcome of the financial check, a bank guarantee (or any other financial security) may be requested from a contractor. Where a bank guarantee is not provided it may be possible to continue with the project with that contractor on condition that no pre-financing is made available to that contractor. A special clause to that effect is foreseen.

- For instruments **with financial collective responsibility** at a level that is sufficient to cover the Community financial contribution:

<sup>282</sup> Networks of Excellence, Integrated Projects, STREPs, Specific Support Actions and Coordination Actions.

- ✓ a full financial viability check is not necessary for all the contractors but must be carried out for the coordinator.
- ✓ the pre-financing cannot exceed 85% of the maximum Community financial contribution.

#### **4.1.2- The notion of insufficient financial collective responsibility of the contractors**

The level of financial collective responsibility of the contractors is considered as insufficient in the following cases:

- All the contractors except one meet the definition of a public body<sup>283</sup>;
- There are several contractors (two or more) in the consortium that are not public bodies, and the requested Community financial contribution of one of them (as established in the table of estimated breakdown of eligible costs per activities and per contractors provided in Annex I to the contract), is greater than 50% of the requested Community financial contribution for all of them.

The amount of the potential financial guarantee to be requested from the participant whose requested Community financial contribution is more than 50% of the requested Community financial contribution of participants that are not public bodies, is calculated as follows:

**Amount of the requested Community financial contribution of the participant which is more than 50% of the requested Community financial contribution of those participants that are not public bodies – Sum of the amounts of requested Community financial contribution of other participants that are not public bodies.**

#### **Example:**

In an Integrated Infrastructures Initiative, a consortium is composed of 5 independent legal entities established in 3 Members states and in 2 Associated Candidate Countries.

Two of them are public bodies.

The table of estimated breakdown of eligible costs per activity and per contractor provided in Annex I to the contract indicates that the requested Community financial contribution for the three contractors that are not public bodies is as follows:

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<sup>283</sup> See footnote n°217.

	Legal Entity A	Legal Entity B	Legal Entity C	Total A + B + C
<b>Requested Community financial contribution (Amount)</b>	1.500.000	800.000	500.000	<b>2.800.000</b>
<b>Breakdown of Requested Community financial contribution (In %)</b>	53,57%	28,57%	17,86%	<b>100,00%</b>

Therefore, if necessary following the financial capacity check, the potential financial guarantee to be requested from legal entity A is equal to:

$$€1.500.000 - (800.000 + 500.000) = € 200.000.$$

## 4.2- EX-POST CONTROLS

### 4.2.1- Regular controls during the implementation of the project

In addition to the above mentioned periodic/final reports and reviews established by the contract, the Commission services may:

- organise additional reviews;
- use independent external experts to assist them<sup>284</sup>;
- request additional information from the contractors relating to submitted reports and/or to the current implementation of the project.

### 4.2.2- Audits

- The Commission may, at any time during the contract, and up to five years after the end of the project, arrange for audits to be carried out (Article II.29 of Annex II (General conditions) of the FP6 model contract);
- Any contractor in an FP6 indirect action may be subject to audits carried out by the Commission, an agent appointed by it, or the European Court of Auditors<sup>285</sup>.
- Some international organisations<sup>286</sup>, according to their statutes, can not be subjected to financial audits carried out by the Commission or its duly authorised representatives.

<sup>284</sup> This provision is specifically mentioned for Networks of Excellence and Integrated Projects under indent b) of the second paragraph of article 11 of the RP:

*“The Commission shall appoint the independent experts in accordance with one of the following procedures:*

*(...)*

*“(b) The independent experts appointed by the Commission to assist in the evaluation of proposals for networks of excellence and integrated projects and in the monitoring of the projects selected and carried out shall be individuals from the fields of science, industry and/or with experience in the field of innovation and also with the highest level of knowledge and who are internationally recognised authorities in the relevant specialist area”.*

It must be noted that, if therefore the public procurement route for the selection of independent external experts for the monitoring and follow-up of IP and NoE is not to be used, public procurements procedures must be used for the selection of independent external experts for the monitoring and follow-up of any other type of FP6 instruments (STReP, I<sup>3</sup>, CRAFT, CA, SSA, ...).

<sup>285</sup> Without prejudice to the European Court of Auditors' own rules.

Even though the Commission may arrange for a financial audit of the participation of such an international organisation in an FP6 project, such an audit normally would be carried out by the internal auditors of that international organisation. This is covered by the provisions of a special clause (n° 2 or 2bis or 2A or 2Abis depending on whether the international organisation is a signatory to the agreement between the European Community and the United Nations or not<sup>287</sup>) inserted into each contract in which such an international organisation participates.

#### **4.2.2.1- Purpose of the audit**

- Audits are always carried out on a confidential basis and may cover:
  - scientific aspects;
  - technological aspects;
  - ethical aspects;
  - **financial aspects** (relating to costs);
  - **any other aspects (such as financial accounting and management principles);**
 relating to the proper implementation of the project and the contract concerned.
  
- In addition, in order to protect the European Communities' financial interests against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections in accordance with:
  - 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<sup>288</sup>;
  - Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>289</sup>;
  - Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>290</sup>.
  
- As a general rule, at least one contractor of each Network of Excellence and each Integrated Project will be subject to an audit during the auditing period covered by the contract.

<sup>286</sup> RP – Article 2 – Paragraph 11:

*“International organisation means any legal entity arising from an association of States, other than the Community, established on the basis of a treaty or similar act, having common institutions and an international legal personality distinct from that of its Member States”*

<sup>287</sup> Special clause n° 2 or 2 bis for Marie Curie contracts or 2A or 2A bis for Marie Curie contracts – see table in Annex section 6.9

<sup>288</sup> [OJ L292, 15.11.1996, p. 2].

<sup>289</sup> [OJ L136, 31.05.1999, p. 1].

<sup>290</sup> [OJ L136, 31.05.1999, p. 8].

#### **4.2.2.2- Auditors**

Audits may be carried out by:

- the Commission:
  - by its own departments (including OLAF);
  - by any of its duly authorised representatives<sup>291</sup>.
- the European Court of Auditors:
  - by its own departments;
  - by any of its duly authorised representatives.

#### **4.2.2.3- Contractors' rights and obligations**

- Any contractor subject to a scientific or technical audit has the right to refuse a scientific or technological auditor proposed as a duly authorised representative of the Commission on grounds of commercial confidentiality. However it cannot refuse to be audited. An alternative proposal will be made in such a case.
- In order to permit a complete, true and fair verification that the project and the contract is (has been) properly managed and performed, contractors are required to:
  - ensure that the Commission's departments, and/or any of its duly authorised representatives, have on the spot access to the contractor's offices or premises where the project is being carried out, at all reasonable times, and to all the information needed to carry out those audits;
  - keep the original or, in exceptional cases, duly substantiated, authenticated copies, of all documents relating to the contract for up to five years after the end of the project. These shall be put at the Commission's disposal where requested during any audit under the contract;
  - make available directly to the Commission all the detailed data that it may be requested.
  - ensure that the rights of the Commission and the European Court of Auditors to carry out audits are extended to the right to carry out any such audit or control on any subcontractor or third party whose costs are reimbursed in full or in part by the Community financial contribution, on the same terms and conditions.

#### **4.2.2.4- Consequences of an audit**

Any amounts due to the Commission as a result of the findings of an audit may be the subject of a recovery (under the terms of Article II.31 of Annex II (General conditions) of the FP6 model contract). As explained in Part 5 of these guidelines, additional sanctions may be applied.

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<sup>291</sup> Auditors appointed by the Commission will also have additional guidelines (FP6 Audit Guidelines – Internal document).

## **5- RECOVERIES AND SANCTIONS**

### **5.1- REIMBURSEMENT TO THE COMMISSION**

**Any amount unduly paid by the Commission to a contractor shall be reimbursed to the Commission according to the terms and date specified by it**(first paragraph of Article II.31 of Annex II (General conditions) to the FP6 model contract)<sup>292</sup>.

#### **5.1.1- Recovery**

This situation may occur where:

##### **Example n°1:**

- the total pre-financing is greater than the total accepted Community financial contribution at the end of a project;

According to the final reports submitted by the consortium of a Coordination Action with a single reporting period, the total accepted eligible costs (where there are no receipts of the project and no interest yielded by the pre-financing) are €750.000.

However, the amount of the pre-financing transmitted to the consortium, 45 calendar days following the date of entry into force of the contract, was €800.000 (80% of the maximum Community financial contribution mentioned in Article 5.2 of the core-contract: €1.000.000).

Therefore, the outstanding balance is negative (€750.000 – €800.000 = €–50.000) and the consortium must repay €50.000 to the Commission. A recovery order for this amount will be established by the Commission indicating the amount to be repaid and the deadline for doing so.

##### **Example n°2:**

- a contractor has overstated expenditure and has consequently received an unjustified financial contribution from the Community for the part of the costs that are not justified:

Two years after the end of an Integrated Project, a contractor using the FC model is the subject of a financial audit.

The findings of the audit indicate that this contractor has:

- overstated its eligible costs relating to its involvement in research and technological development or innovation activities;
- not declared a substantial amount of receipts relating to its eligible costs for research and technological development or innovation activities.

The following table presents the findings of this audit:

<sup>292</sup> FP6 model contract – Annex II – article II.31 – first paragraph:

*“If any amount is unduly paid to the contractor or if recovery is justified under the terms of the agreement, the contractor undertakes to repay the Commission the sum in question on whatever terms and by whatever date it may specify.”*

	As declared by the contractor (A)	As noted by the Commission's audit (B)	Difference (A) - (B) (€)
	Research and technological development or innovation activities	Research and technological development or innovation activities	Research and technological development or innovation activities
Eligible costs	1.254.030	1.150.000	104.030
Receipts	0	750.000	-750.000
Requested Community financial contribution	627.015	400.000	227.015

(€) :

if (A) - (B) > 0, Overstatement

if (A) - (B) = 0, OK

if (A) - (B) < 0, Potential payment from the Commission to the contractor

Therefore, taking into account an overstatement of eligible costs of €104.030, the non-declaration of receipts of €750.000, the correct Community financial contribution is recalculated as follows:

**50% of eligible costs, within the limit of the difference between eligible costs and receipts = €1.150.000 x 50% (€575.000) within the limit of €1.150.000 – 750.000 (400.000) = €400.000.**

This contractor was entitled to receive only €400,000 rather than €627.015, and must repay the difference €227.015€ (627.015 – 400.000) to the Commission.

In addition, to recovering the amount due, the Commission is entitled to claim liquidated damages for the amount overcharged (Article II.30 of Annex II to the model contract). (See section 5.2)

### **5.1.2- General procedures for reimbursement of amounts due to the Community**<sup>293</sup>

#### **NORMAL TERMINATION**

A contractor has up to 45 calendar days after the effective date of termination of its participation to provide the Commission with:

- any periodic or final reports required by the contract, relating to the work it has performed:
  - either from the beginning of the project up to the effective date of the termination of its participation;
  - or for the period covered since the last periodic reports approved by the Commission up to the effective date of the termination of its participation.
- an audit certificate<sup>294</sup> for the costs it has incurred:
  - either from the beginning of the project up to the effective date of the termination of its participation;
  - or for the period after the last approved audit certificate.

<sup>293</sup> Commission services must apply the complete relevant procedures, especially according to articles 70 to 74 of the FR and articles 77 to 89 of the IM.

<sup>294</sup> Except in the case of an SSA supported through a lump sum grant.

In the absence of receipt of such documents within the delays, the Commission shall consider that the contractor concerned incurred no costs and that no payment can be made for this (these) period(s). The Commission will then require the reimbursement of any pre-financing not justified after providing 30 days notice in writing of the absence of receipt of the document.

#### **TERMINATION FOR BREACH OF CONTRACT**

A defaulting contractor has up to 30 calendar days after the effective date of termination of its participation to provide the Commission with:

- any periodic and/or final reports required by the contract, relating to the work it has performed:
  - either from the beginning of the project up to the effective date of the termination of its participation;
  - or for the period covered since the last periodic reports approved by the Commission up to the effective date of the termination of its participation.
- an audit certificate<sup>295</sup> for the costs it has incurred:
  - either from the beginning of the project up to the effective date of the termination of its participation;
  - or for the period after the last approved audit certificate.

In the absence of receipt of the documents within the delays, the Commission shall consider that the defaulting contractor incurred no costs and that no payment can be made for this (these) period(s).

The consortium has up to 30 calendar days after the effective date of termination of the defaulting contractor's participation to provide the Commission with information on the share of the contribution that was effectively transferred to the defaulting contractor since the beginning of the project.

In the absence of receipt of such information within the deadline, the Commission shall consider that the defaulting contractor owes no money to the Commission and that the Community financial contribution already paid is still at the disposal of the consortium and under its responsibility.

Based on the documents and information mentioned above, the Commission establishes the debt owed by the defaulting contractor.

Therefore the Commission shall take one of the two actions below:

- either request the defaulting contractor (with a copy to the coordinator acting on behalf of the consortium) to transfer to the consortium the amount owed to the Commission within 30 calendar days. In this case, the coordinator (on behalf of the consortium) shall inform the Commission at the latest 10 calendar days after the end of this delay if the amount was transferred to it.

If the contractor does not comply with this requirement, the Commission may establish a recovery order for any amount due by the contractor.

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<sup>295</sup> Except in the case of an SSA supported through a lump sum grant.

- **or, if the amount is not reimbursed by the contractor**, issue a recovery order to the consortium (see infra);

For any amount unduly paid by the Commission to a contractor (as required by Article 71 of the FR)<sup>296</sup>:

- a **recovery order** to the Commission accounting officer must be established
- followed by a **debit note** sent to the contractor

both drawn up by the Commission authorising officer responsible.

#### **5.1.2.1- Establishment of the recovery order**

A **recovery order** is the Commission's internal operation by means of which the Commission authorising officer instructs the Commission accounting officer to recover a debt due. In order to establish a recovery order the authorising officer has to ensure that (Article 79 IM):

**Article 79 : Establishment of amounts receivable (Article 71 of the Financial Regulation)**

*"To establish an amount receivable the authorising officer responsible shall ensure that:*

- (a) the receivable is certain and not subject to any condition;*
- (b) the receivable is of fixed amount, expressed precisely in cash terms;*
- (c) the receivable is due and is not subject to any payment time;*
- (d) the particulars of the debtor are correct;*
- (e) the amount to be recovered is booked to the correct budget item;*
- (f) the supporting documents are in order; and*
- (g) the principle of sound financial management is complied with, in particular with regard to the criteria referred to in point (a) of Article 87(1)."*

**The recovery order** must indicate (first paragraph of Article 72 of the FR<sup>297</sup>, and as mentioned in Article 81 of the IM, for any amount unduly paid by the Commission to a contractor):

- the financial year to which the revenue is to be booked;
- the references of the act or legal commitment (the EC contract) which is the source of the debt and gives rise to the entitlement to recovery;
- the budget article and any other subdivision that may apply, including, where appropriate, the references of the corresponding budget commitment;
- the amount to be recovered, expressed in Euro;
- the name and address of the debtor (the contractor);
- the due date; and

<sup>296</sup> FR: Part one – Title IV – Chapter 5 – Section 3 - Article 71:

*"1. Establishment of an amount receivable is the act by which the authorising officer by delegation or subdelegation:*

- (a) verifies that the debt exists;*
- (b) determines or verifies the reality and the amount of the debt;*
- (c) verifies the conditions in which the debt is due.*

*2. The own resources made available to the Commission and any amount receivable that is identified as being certain, of a fixed amount and due must be established by a recovery order to the accounting officer followed by a debit note sent to the debtor, both drawn up by the authorising officer responsible.*

*3. Amounts wrongly paid shall be recovered.*

*4. The conditions in which interest on late payment is due to the Communities shall be laid down in the implementing rules."*

<sup>297</sup> FR: Part one – Title IV – Chapter 5 – Section 4 - Article 72 – first paragraph:

*"The authorisation of recovery is the act whereby the authorising officer by delegation or subdelegation responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he/she has established."*

- the possible method of recovery, including in particular recovery by offsetting or enforcement of any guarantee lodged (see *infra*).

The recovery order is dated and signed by the Commission authorising officer, and is sent to the Commission accounting officer.

#### **5.1.2.2- Debit note**

Once the recovery order has been made, a debit note must be established (Article 75 IM).

The Commission authorising officer sends the debit note to the debtor (the contractor) with a copy to the Commission accounting officer. The debit note informs the contractor that:

- the Communities have established the amount receivable;
- payment of the debt to the Communities is due on a certain date (“the due date”);
- if payment is not made by the due date, interest shall be added to the debt at the rate referred to in Article 86 of the IM<sup>298</sup> (the rate established in the EC contract – *3.5 percentage points over the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls*), without prejudice to any specific regulations applicable;
- wherever possible the Commission is to effect recovery by offsetting the debt against any amount owed to that debtor, after the debtor (the contractor) has been informed;
- if the contractor does not repay the amount due by the due date, the Commission services will effect recovery by enforcement of any guarantee lodged in advance;
- if, after all those steps have been taken, if the amount has not been recovered in full, the Community shall effect recovery by enforcement of a decision secured either in accordance with Article 72(2) of the Financial Regulation (by applying Article 256 of the Treaty – as established by the Rules for Participation for FP6 and by the EC contract) or by legal action.

*The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer responsible. He/She shall exercise due diligence to ensure that the Communities receive their revenue and shall see that their rights are safeguarded.* (first paragraph of Article 73 of the FR)

**The Commission informs the contractor** in writing of its claim for reimbursement by means of a registered letter with acknowledgement of receipt.

<sup>298</sup> IM: Part one – Title IV – Chapter 5 – Section 5 – Article 86 – second paragraph:

*“The interest rate for amounts receivable not repaid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, increased by:*

*(a) seven percentage points where the obligating event is a public supply and service contract referred to in Title V;*

*(b) three and a half percentage points in all other cases.”*

The contractor has a period of **30 calendar days to answer the Community's claim**.

Where the contractor has legitimate grounds for not being able to provide the full reimbursement by the due date it is sometimes possible to make arrangements for payments in instalments. In such cases, interest payments continue to apply to the balance of the principal amount and a bank guarantee has to be lodged for the amount due.

### **5.1.3- Default interest in case of late reimbursement**

- If the contractor fails to pay by the due date set by the Commission, **the sum due shall bear interest at the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, plus 3.5 (three and a half) percentage points** (in accordance with Article 86 of the IM and the second paragraph of Article II.31 of Annex II (General conditions) to the FP6 model contract);
- Interest on late payment shall **cover the period between the date set for repayment, exclusive, and the date when the Commission receives full payment of the amount owed, inclusive**;
- Any partial payment **shall first be entered against charges and interest on late payment** and then against the principal.

### **5.1.4- Forms of the recovery**

The forms of recovery may be the following:

- By **offsetting the sum owed to the Commission against any amounts owed to the contractor** (in accordance with the second indent of the first paragraph of Article 73 of the FR<sup>299</sup> and Article 83 of the IM<sup>300</sup> and as mentioned in the third paragraph of Article II.31 of Annex II (General conditions) to the FP6 model contract).
- Or the contractor **reimburses the debt by paying the Commission**;

In case of recovery by offsetting, the contractor must be informed in advance but prior consent is not required.

If the full amount of the debt has not been recovered by the due date specified in the debit note, including by the use of recovery by offsetting (Article 84 of the IM<sup>301</sup> and the

<sup>299</sup> FR: Part one – Title IV – Chapter 5 – Section 5 - Article 73 – first paragraph – second indent:

*“The accounting officer shall recover amounts by offsetting them against equivalent claims that the Communities have on any debtor who himself/herself has a claim on the Communities that is certain, of a fixed amount and due.”*

<sup>300</sup> IM: Part one – Title IV – Chapter 5 – Section 5 – Article 83:

*“At any point in the procedure the accounting officer shall, after informing the authorising officer responsible and the debtor, recover established amounts receivable by offsetting in cases where the debtor also has a claim on the Communities that is certain, of a fixed amount and due relating to a sum established by a payment order.”*

<sup>301</sup> IM: Part one – Title IV – Chapter 5 – Section 5 – Article 84:

*“1. Without prejudice to Article 83, if the full amount has not been recovered by the due date specified in the debit note, the accounting officer shall inform the authorising officer responsible and shall without delay launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by enforcement of any guarantee lodged in advance.”*

second paragraph of Article 72 of the FR<sup>302</sup>, and as mentioned in the third and fifth paragraphs of Article II.31 of Annex II (General conditions) to the FP6 model contract) :

- the Commission **calls any financial guarantee lodged by the contractor, if applicable;**

The contractor's prior consent is not required.

- if it is impossible to recover from the financial guarantee or it does not exist or if after calling the financial security the full amount of the debt has not been recovered, the **Commission enforces a recovery decision. The recovery is secured:**
  - **in accordance with Article 256 of EC Treaty.<sup>303</sup> This means that the recovery order can be enforced by the Member State in accordance with its rules of civil procedure, upon being informed of a decision by the Commission imposing the repayment of the debt, even though the debtor is not the Member State itself.**

### **5.1.5- Additional provisions**

- **Bank charges occasioned by the recovery of the sums owed to the Commission are borne solely by the contractor** (fourth paragraph of Article II.31 of Annex II (General conditions) to the FP6 model contract).
- The Commission accounting officer, in collaboration with the Commission authorising officer responsible, may allow **additional time for reimbursement** only at the written request of the contractor, with due indication of the reasons, and **provided that the following two conditions are fulfilled** (Article 85 IM):
  - the contractor undertakes to pay interest at the rate specified in the seventh paragraph of Article II.28 of Annex II (General conditions) to the FP6 model contract for the entire additional period allowed, starting from the date on which the payment was originally due;

and

  - in order to safeguard the Community's rights, the contractor lodges a financial guarantee covering the debt outstanding in both the principal sum and the interest, which is accepted by the institution's accounting officer.

The guarantee may be replaced by a joint and several guarantee by a third party approved by the Commission's accounting officer.

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*2. Without prejudice to Article 83, where the recovery method referred to in paragraph 1 cannot be used and the debtor has failed to pay in response to the letter of formal notice sent by the accounting officer, the accounting officer shall enforce a recovery decision secured either in accordance with Article 72(2) of the Financial Regulation or by legal action."*

<sup>302</sup> FR: Part one – Title IV – Chapter 5 – Section 4 - Article 72 – second paragraph:

*"The institution may formally establish an amount as being receivable from persons other than States by means of a decision which shall be enforceable within the meaning of Article 256 of the EC Treaty."*

<sup>303</sup> This provision is mentioned in the fourth paragraph of article 12 of the RP :

*"The conclusion of a contract shall not affect the right of the Commission to adopt a recovery decision, enforceable in accordance with Article 256 of the Treaty, to obtain reimbursement of an amount due from a participant. Before adopting a decision of this kind, the Commission shall ask for the participant's comments to be submitted before a specified date."* Article II.31.5 of Annex II to the FP6 model contract states that the *"contractor understands that under Article 256 of the Treaty establishing the European Community, and as provided for in the Rules for Participation, the Commission may adopt an enforceable decision formally establishing an amount as receivable from persons other than States"*

## **5.1.6. Implementation of financial collective responsibility**

### **5.1.6.1 - General principles**

If a contractor breaches the contract and the consortium does not make good this breach by continuing to carry out the project, the Commission may, as a last resort and if all other approaches have been explored, hold the other contractors liable for the debt of that contractor under certain conditions (second indent of the second paragraph of Article 13 of the RP and Article II.18 of the FP6 contract).

Where the contract or the participation of a contractor is terminated for breach of contractual obligations or irregularity, and where the defaulting contractor does not honour the reimbursement of the amount it owes, the Commission will implement the financial collective responsibility of the consortium, after having used other possibilities to recover the outstanding debt. The consortium then reimburses the amount due to the Commission. (This provision does not apply to all instruments and can be applied only in those contracts in which financial collective responsibility applies.)

### **5.1.6.2 - Modalities<sup>304</sup>**

- The amount due to the Commission:
  - can not exceed the maximum Community financial contribution (mentioned in the second paragraph of article 5 of the core-contract)
  - can not exceed the amount of the Community financial contribution due from the defaulting contractor ;
  - is allocated among all or some of the remaining contractors, except where:
    - ✓ the defaulting contractor:
      - ❖ meets the definition of a public body; or
      - ❖ meets the definition of an international organisation; or
      - ❖ is a contractor whose participation to the indirect action is guaranteed by a Member State or an Associated State (= public body).

In the above cases, the debt of this defaulting contractor is **not** allocated among the remaining contractors. Such a defaulting contractor is solely responsible for its debts and any guarantees established by the Member State or Associated State may be called upon.

- The amount due by the defaulting contractor
  - ✓ is allocated among all the remaining contractors **except** those that:
    - ❖ are public bodies;

<sup>304</sup> See article II.18 of Annex II (General conditions) to the FP6 model contract.

- ❖ are international organisations;
- ❖ or, are contractors whose participation is guaranteed by a Member State or an Associated State (= public body).

The allocation among the relevant remaining contractors is based on their relative share:

- where pre-financing is to be recovered:  
taking into account their share of the provisional Community financial contribution based on costs (as indicated in the table of estimated breakdown of eligible costs per activity and per contractor in the technical annex (Annex I) to the contract);
- where a settled payment is to be recovered  
taking into account their share of Community financial contribution based on certified costs accepted by the Commission.
- In addition, the share of the debt of this defaulting contractor allocated to remaining contractors can not exceed the Community financial contribution each of those remaining contractors is entitled to receive.

The amount a contractor is entitled to receive is:

- where pre-financing is to be recovered:  
based on the expected Community financial contribution to its provisional costs (as indicated in the table of estimated breakdown of eligible costs per activity and per contractor in the technical annex (Annex I) to the contract);
- where a settled payment is to be recovered:  
based on the Community financial contribution to its certified costs accepted by the Commission.
- The consortium is not responsible for:
  - any amount owed by a defaulting contractor for any contractual breach discovered after the final implementation date of the contract (which is determined by the maximum periods beyond the end date of the duration of the project for the contractor(s) to submit the required activity reports and financial statements, for the Commission to approve them, and for it to make the final payment);
  - liquidated damages due by a contractor;
  - other financial penalties and other sanctions imposed on a defaulting contractor.

### 5.1.6.3 - Examples

#### 5.1.6.3.1- Example n°1

- Hypothesis

The debt of a defaulting contractor according to the periodic and final reports provided to the Commission by the coordinator of an Integrated Project is

€ 1.000.000.

This amount is not a part of the pre-financing but represents a settled payment.

This Integrated Project is composed of 15 different independent legal entities.

Among these:

- 7 are public bodies;
- 1 is an international organisation;
- 3 are SMEs. Within the group of SMEs, one is a legal entity whose participation in this project is guaranteed by a Member State;
- 4 are big private enterprises, whose participation is not guaranteed by the State in which they are established.

**The defaulting contractor is one of the seven legal entities that is a public body.**

- Calculation of the share of the debt per contractor

In this case, the debt of the defaulting contractor **is not allocated** among the remaining contractors, **because the defaulting contractor is a public body. The public body will be obliged to make good its debt either by means of the application of Article 256 of the Treaty or by means of legal action.**

#### 5.1.6.3.2- Example n°2

- Hypothesis

Same hypothesis as in example n°1, but **the defaulting contractor is one of the big private enterprises.**

- Calculation of the share of the debt per contractor

In this case, the debt of the defaulting contractor is allocated among 5 of the 14 remaining contractors.

- The 7 legal entities that public bodies, the international organisation and the SME whose participation is guaranteed by its Member State are excluded from this group;
- The remaining contractors on which the debt is to be allocated are therefore the following:
  - ✓ The two other SMEs
  - ✓ The 3 other big private enterprises.

The Community financial contribution based on certified costs accepted by the Commission for these contractors is the following:

	Big private enterprise 1	Big private enterprise 2	Big private enterprise 3	SME 1	SME 2	Total
Share of the requested Community financial contribution accepted by the Commission (Amount)	275.000	652.000	471.000	320.000	125.000	1.843.000
Share of the requested Community financial contribution accepted by the Commission (%)	14,92%	35,38%	25,56%	17,36%	6,78%	100,00%

Taking into account the relative weight of these contractors, the debt of the defaulting contractor should be allocated as follows:

	Big private enterprise 1	Big private enterprise 2	Big private enterprise 3	SME 1	SME 2	Total
Allocation of the debt of the defaulting contractor	149.213	353.771	255.562	173.630	67.824	1.000.000
Difference between the accepted Community financial contribution and the share of the debt of the defaulting contractor	125.787	298.229	215.438	146.370	57.176	843.000

This table shows also that the share of the debt of the defaulting contractor allocated to each remaining contractor does not exceed the Community financial contribution generated for the consortium according to their certified costs accepted by the Commission. Therefore, the debt is allocated to these five contractors as mentioned in the first line of the above table.

#### 5.1.6.3.3- Example n°3

- Hypothesis

Same hypothesis as in example n°2: **the defaulting contractor is one of the big private enterprises.**

- Calculation of the share of the debt per contractor

The Community financial contribution based on certified costs accepted by the Commission for the five contractors on which the debt of the defaulting contractor is to be allocated is the following:

	Big private enterprise 1	Big private enterprise 2	Big private enterprise 3	SME 1	SME 2	Total
Share of the requested Community financial contribution accepted by the Commission (Amount)	240.000	245.000	200.000	200.000	100.000	985.000
Share of the requested Community financial contribution accepted by the Commission (%)	24,37%	24,87%	20,30%	20,30%	10,15%	100,00%

Taking into account the relative weight of these contractors, the debt of the defaulting contractor should be allocated as follows:

	Big private enterprise 1	Big private enterprise 2	Big private enterprise 3	SME 1	SME 2	Total
Allocation of the debt of the defaulting contractor according to the relative weight of each contractor	243.655	248.731	203.046	203.046	101.523	1.000.000
Difference between the accepted Community financial contribution and the share of the debt of the defaulting contractor	-3.655	-3.731	-3.046	-3.046	-1.523	-15.000
Allocation of the debt of the defaulting contractor taking into account the Community financial contribution accepted	240.000	245.000	200.000	200.000	100.000	985.000

This table shows also that the share of the debt of the defaulting contractor allocated to each contractor exceeds the Community financial contribution generated for the consortium according to their certified costs accepted by the Commission. Therefore, only a part of the debt of the defaulting contractor is allocated to these five contractors as mentioned in the third line of the above table.

## 5.2- SANCTIONS

### 5.2.1- Liquidated damages

**The Community is entitled to claim liquidated damages from a contractor who is found to have overstated expenditure and who has consequently received an unjustified financial contribution from the Community** (Article II.30 of Annex II (General conditions) to the FP6 model contract).

#### 5.2.1.1- Calculation of liquidated damages

The **amount of liquidated damages** is calculated according to the following formula:

$$\text{Liquidated damages} = \text{unjustified financial contribution} \times (\text{overstated expenditure} / \text{total claimed})$$

In the vast majority of cases, **the meaning of overstated expenditure in the above formula is unjustified financial contribution.**

In addition, **the calculation of any liquidated damages only takes into consideration the contractor's claim for the Community contribution for that period** (last indent of the first paragraph of Article II.30 of Annex II (General conditions) to the FP6 model contract). **It is not calculated in relation to the entire Community contribution.**

#### Example:

The Commission is entitled to claim an amount of liquidated damages from the contractor mentioned in example n°2 of point 5.1.1 who was found to have overstated expenditure and who had consequently received an unjustified financial contribution from the Community of € 227.015.

The maximum amount of liquidated damages the Community could impose is:

$$€ 227.015 \times (227.015 / 1.254.030) = € \mathbf{41.096,15}$$

### 5.2.1.2- Modalities

- If applied, liquidated damages are due **in addition** to the recovery of the unjustified financial contribution from the contractor.

#### Example:

If liquidated damages are applied to the contractor mentioned in example n°2 of point 5.1.1 (who was found to have overstated expenditure and consequently received an unjustified financial contribution from the Community equal to € 227.015), that contractor would have to reimburse to the Commission the total amount of:

- Unjustified financial contribution (a): € 227.015
  - Liquidated damages (b): € 41.096,15
  - Total amount (a) + (b): € **268.111,15**
- **The Commission informs the contractor** in writing of its claim for repayment of an unjustified financial contribution and for payment of liquidated damages **by means of a registered letter with acknowledgement of receipt.**  
The contractor has **30 calendar days to answer the Community's claim.**
  - The procedure for payment of liquidated damages is the same as those concerning the reimbursement of unjustified financial contribution<sup>305</sup>, including the implementation of provisions relating to default interest in case of late payment.

### 5.2.2- Financial penalties

In addition to liquidated damages, any contractor declared to be in grave breach of its contractual obligations shall be liable to financial penalties (the fourth and fifth indents of the first paragraph of Article 133 of the IM<sup>306</sup> and the sixth paragraph of Article II.30 of Annex II (General conditions) to the FP6 model contract) of:

- **between 2% and 10% of the value of the Community financial contribution received by that contractor;**
- **between 4% and 20% of the value of the Community financial contribution received by that contractor in the event of a repeated breach in the five years following the first breach..**

#### Example:

<sup>305</sup> See 5.1.

<sup>306</sup> IM: Part One – Title V – Chapter 1 – Section 3 – Article 133 – paragraph 1 – fourth and fifth indents:  
*“Contractors who have been found to have seriously failed to meet their contractual obligations shall receive financial penalties representing 2 % to 10 % of the total value of the contract in question.  
That rate may be increased to 4 % to 20 % in the event of a repeat offence within five years of the first infringement.”*

The contractor mentioned in example n°2 of point 5.1.1 would be subject to such financial penalties if it is determined that a grave breach of its contractual obligations took place.

According to the report(s) to the Commission on the distribution of the Community financial contribution between contractors, **this contractor has received a Community financial contribution of € 700.000**<sup>307</sup>.

According to the Commission's findings, it is the **first grave breach** of this contractor's contractual obligations in actions supported by the Commission in the last five years.

Therefore this contractor may be subject to additional **financial penalties of between €14.000 and €70.000**. This is in addition to the recovery of the amount overpaid (unjustified financial contribution) and the liquidated damages for overcharging.

**This provision also applies to contractors who have been guilty of making false declarations** (Article 133.1.3 of IM<sup>308</sup> and Article II.30.5 of Annex II (General conditions) to the FP6 model contract).

**In both cases (false declarations and grave breach of contractual obligations), the contractor will also be excluded from all contracts and grants financed by the Community for a period of two years from the time that the infringement is established. The exclusion can be extended to three years where a repeat offence takes place within five years of the first infringement.**

### **5.2.3- Exclusion – irregularity**

- **Any participant who has committed an irregularity in the implementation of an FP6 indirect action may be excluded at any time from the evaluation or selection procedure due regard being given to the principle of proportionality.**(Article 10.5.2 of the RP<sup>309</sup>). This means that in such circumstances a proposer can be excluded from the evaluation procedure and its proposal will not be evaluated, or, if evaluated that the proposal will not be selected for funding by the Community.

**Irregularity** means any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by a legal entity which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it through unjustified expenditure<sup>310</sup>.

<sup>307</sup> The Community financial contribution is allocated among contractors according to the decisions taken by the consortium.

<sup>308</sup> IM: Part One – Title V – Chapter 1 – Section 3 – Article 133 – paragraph 1 – third indent:

*“Tenderers or candidates who have been guilty of making false declarations shall also receive financial penalties representing 2 % to 10 % of the total value of the contract being awarded.”*

<sup>309</sup> RP: Article 10 – fifth paragraph – second subparagraph:

*“Any participant who has committed an irregularity in the implementation of an indirect action may be excluded from the evaluation and selection procedure at any time, due regard being had to the principle of proportionality.”*

<sup>310</sup> As mentioned in indent 20 of article 2 of the RP.

- Where a contract has already been signed with a contractor who then commits an irregularity, **the Commission may immediately exclude that contractor from the contract where the irregularity:**

*The Commission may immediately terminate the participation of a contractor:  
a) where the contractor has deliberately or through negligence committed an irregularity in the performance of any contract with the Commission.*(second paragraph of Article II.16 of Annex II (General conditions) to the FP6 model contract)

**Such a contractor can also be excluded from all other contracts in which it is involved with the Commission.**

#### **5.2.4- Other sanctions**

All the above mentioned sanctions are without prejudice to any administrative or financial sanctions that the Commission may impose on any defaulting contractor in accordance with the Financial Regulation or to any other civil remedy to which the Community or any other contractor may be entitled<sup>311</sup> (Article II.30.5 of Annex II to the FP6 model contract).

Furthermore, these provisions do not preclude any criminal proceedings that may be initiated by the Member States' authorities.

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<sup>311</sup> See especially article 133 of the IM.

## **6- ANNEXES**

### **6.A- ANNEX A- FINANCIAL ISSUES FOR R&TD ACTIVITIES UNDER THE PRIORITY THEMATIC AREA “FUSION ENERGY RESEARCH”**

**[To be provided by DG RTD – Directorate J]**

**6.B- ANNEX B- FINANCIAL ISSUES FOR ACTIONS TO PROMOTE HUMAN RESOURCES AND MOBILITY (MARIE CURIE ACTIONS)**

**[To be provided by DG RTD – Directorate B – MP]**

**6.C- ANNEX C- FINANCIAL ISSUES FOR FP6 EXPERTS**

**[To be provided by DG RTD – Unit A3 – NRS]**

**6.D- ANNEX D- FINANCIAL ISSUES FOR ARTICLE 169 ACTIONS**

**[To be provided by DG RTD – Unit A3 – ]**

## 6.1- ANNEX 1 – EXAMPLES OF POTENTIAL ELIGIBLE COSTS

Even though categories of eligible costs are no longer identified (unlike previous Framework Programmes) types of costs like personnel, durable equipment, travel and subsistence, subcontracting, consumables, etc. may of course be considered as eligible costs, providing they meet the definition of eligible costs in the contract and are incurred in the context of the activities permitted by the instrument.

One element of this definition is key: to be eligible, amongst other conditions, a cost must be determined according to the usual accounting principles of the participant.

### 6.1.1- Personnel

- Personnel may include:
  - "Permanent employees", who have permanent working contracts with the contractor.
  - "Temporary employees", who have temporary working contracts with the contractor.
  - In certain circumstances, costs of personnel made available by a third party on the basis of a prior agreement may be considered as eligible costs to the project. However, the reimbursement of such costs depends on compliance with the provisions relating to the use of third party resources. In any event the time devoted by such a person can be taken into consideration in determining the resources used on the project.
- The total costs of personnel that can be charged to the project are determined as follows:
  - **Cost for remuneration of salary** should be taken from the payroll account and should reflect the total gross remuneration plus the employer's portion of social charges (e.g. holiday pay, pension contributions, health insurance and social security payments). Remuneration costs must be calculated individually for each researcher. .
  - **Working time to be charged** must be recorded throughout the duration of the project by any reasonable but reliable means (including time sheets). The person in charge of the work designated by the contractor should certify the records. A simple estimation of hours worked is not sufficient. There must be a system that allows the time of anyone working on the project to be followed and audited.  
Productive hours must be calculated according to the contractor's normal practices (taking into account particularly national holidays, absenteeism, etc.).
- Even though an estimate of eligible costs may have been used in order to establish the estimated budget for the project, at the time of submission of the Financial Statement per Activity (Form C), only the actual eligible costs can be claimed.

Any corrections required between one period and another must be indicated in the Form C for the subsequent period under “adjustment”. This should be explained in detail in the activity report.

- Contractors using the AC model may only charge costs of permanent staff involved in the project in the following cases:
  - for management of the consortium activities, providing the eligible direct costs can be identified and justified with precision (in these cases the flat rate for overheads is not applied as it covers only direct additional costs);
  - for other activities, providing such people have a contract which depends in full or in part upon external funding additional to the normal recurring funding of the contractor. If such permanent people receive the same salary with or without being involved in the Community project (and that salary is not clearly identified as being dependant upon external funding in the contractor’s accounts) their costs are not additional even though they may have additional work.

In certain cases, researchers may have a permanent working contract, which depends partially on external funding. For example, in some institutions, professors are paid to work 20 hours per week giving lectures and classes. However, they are expected to complete the other 20 hours per week on externally-funded research projects. The working contract of this researcher mentions explicitly that a part of the salary of the researcher is subject to participation in activities depending on external funding (like the Community financial contribution to an indirect action of FP6). Where the researcher is not involved in activities financially supported by external funding, his/her salary is equal to € 5.000. Where the researcher is involved in such activities, his/her salary is € 6.000 and the researcher is expected to work additional hours (X equivalent) to carry out the additional work required by the project. Therefore part or all of the difference (€ 1.000) depending of the hours devoted to the EC project may be considered as an additional direct eligible cost.

- For contractors working on the AC cost model, time charged for personnel may only be considered as additional eligible costs:
  - if the personnel concerned is involved at 100% of its working time in the project with the European Communities and the person’s contract is a temporary contract for carrying out such work;
  - or
  - if there is clear evidence establishing that the additional hours and associated costs are directly and only due to the involvement of this personnel in the contract with the European Communities and that these additional costs are reimbursed;
- Where it is the usual practice of the contractor to consider all or certain types of personnel costs (such as administrative or support personnel) as indirect costs, the costs of this personnel can not be charged as direct eligible costs, but only as indirect costs.

### **6.1.2- Durable equipment**

- As a general rule, durable equipment should be recognised as an asset when it is probable that:
  - the future economic benefits associated with the asset will flow to the organisation; and
  - the cost of the asset can be measured reliably.
- Costs for equipment can include all those costs necessary to bring the asset to working condition for its intended use. This could include not only its original purchase price but also costs of site preparation, delivery and handling, installation, related professional fees for architects and engineers, if these are necessary for the project and can be justified.
- If an asset has significant components that either have different useful lives or provide benefits in different patterns, each of the components should be accounted for as a separate asset.
- Costs relating to the purchase or leasing with option to buy of durable equipment shall be charged to the contract, pursuant the contractors' own accounting practices. The depreciation should be charged to the project income statement unless it is included in the carrying amount of overheads.

However complying with the principle of sound financial management, the cost claimed for durable equipment that is leased with option to buy cannot exceed the costs that would have been incurred if the equipment had been purchased and depreciated under normal practices.

- To be considered as eligible a cost must be determined according to the contractor's usual accounting practices and each contractor must apply its usual depreciation system for durable equipment.
  - Equipment used on the project should be accounted for in accordance with the normal depreciation rules of the contracting organisation.
  - Depreciation is charged in each relevant periodic report. The full value of the depreciated costs of equipment over the life of the project cannot be charged as a single amount in one period.
  - Depreciation can be calculated on equipment, which has been purchased before the commencement date of the contract, and which will be used in the project.
  - Only the portion of the equipment used on the project may be charged. The amount of use (percentage used and time) must be auditable.
  - Depreciated costs of equipment can never exceed the purchase price of the equipment.

- Depreciation of durable equipment used on a project may be charged in line with the normal methods of the contractor.

Depreciation of assets used for the general administration of the organisation may be charged to overheads on the same basis as above.

#### EXAMPLE:

- The formula used for a **linear depreciation** must follow the principles established by the following one:

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

Where:

- A = the period in months (or in days) during which the durable equipment is used for the project after invoicing, for the relevant reporting period
- B = the depreciation period in months (or in days) for the durable equipment
- C = the actual cost (excluding VAT) of the durable equipment,
- D = the percentage of usage of the durable equipment for the project for the relevant reporting period

#### EXAMPLE:

- The formula used for a **degressive depreciation** must follow the principles established by the following one:

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

Where:

- A = the period in months (or in days) during which the durable equipment is used for the project after invoicing, for the relevant reporting period
  - B = the period in months (or in days) of the relevant reporting period
  - C = the value of the depreciation for the relevant reporting period
  - D = the percentage of usage of the durable equipment for the project for the relevant reporting period
- The following simplified cases provide examples of calculation of depreciation which may be considered as eligible costs:
    - Example n°1:  
A university involved in an Integrated Project (duration: 5 years) has bought a specific equipment necessary for the implementation of its tasks in the project on the first day of the start of the project.  
The cost (excluding VAT) of this equipment is €120.000.

In accordance with its national legislation and its usual accounting practices, the university depreciates this equipment over 3 years using a linear depreciation model.

In accordance with university's usual accounting practices this is a direct cost.

The use of equipment for the project is:

- ✓ First reporting period (month 1 to month 12): 5% of the total available time for use of the equipment;
- ✓ Second reporting period (month 12 to month 24): 10% of the total available time for use of the equipment;
- ✓ Third reporting period (month 25 to month 36): 5% of the total available time for the equipment;
- ✓ Fourth reporting period (month 37 to month 48): 5% of the total available time for use of the equipment;
- ✓ Fifth reporting period (month 49 to month 60): 2% of the total time available for use of the equipment;

The direct eligible costs per reporting period are:

	Reporting Period 1	Reporting Period 2	Reporting Period 3	Reporting Period 4	Reporting Period 5
Period in months during which the durable equipment is used for the project after invoicing, for the relevant reporting period (A)	12	12	12	0	0
Total depreciation period in months (B)	36	36	36	0	0
Actual cost (excluding VAT) of the durable equipment (C)	120.000	120.000	120.000	0	0
% of use for the reporting period (D)	5%	10%	5%	5%	2%
Direct Eligible Costs (E) = (A) / (B) x (C) x (D)	2.000	4.000	2.000	0	0

■ Example n°2:

Same hypothesis as example n°1 but with a degressive depreciation model.

The direct eligible costs per reporting period are:

	Reporting Period 1	Reporting Period 2	Reporting Period 3	Reporting Period 4	Reporting Period 5
Period in months during which the durable equipment is used for the project after invoicing, for the relevant reporting period (A)	12	12	12	0	0
Period in months of the relevant reporting period (B)	12	12	12	12	12
Value of the depreciation for the reporting period (C)	68.571,4	34.285,7	17.142,9	-	-
% of use for the reporting period (D)	5%	10%	5%	5%	2%
Direct Eligible Costs (E) = (A) / (B) x (C) x (D)	3.429	3.429	857	0	0

- Finally, where it is the usual practice of the contractor to consider durable equipment costs (or some of them) as indirect costs, those costs can not be charged as direct eligible costs, but as indirect eligible costs.

### **6.1.3- Travel and subsistence**

- As a general rule, actual travel and related subsistence costs relating to the project may be considered as direct eligible costs, providing they comply with the contractor's usual practises.
- However, if such costs are incurred by the contractor's person working on the project and are reimbursed by the (the contractor) on the basis of a lump sum/ or per diem payment, it is the lump sum/or per diem and not the actual costs that are considered to be the eligible cost.
- Where it is the usual practice of the contractor to consider travel and subsistence costs (or some of them) as indirect costs, those costs can not be charged as direct costs of the project, but as indirect costs.

### **6.1.4- Subcontracting**

- For a complete overview of direct eligible costs for subcontracting, please see point 2.2.1.1.
- Whatever the cost model used, indirect costs can not be based on direct eligible costs of subcontracts.

### **6.1.5- Consumables**

- Any consumables necessary for the implementation of the project may be considered as direct eligible costs.

Consumables usually relate to the purchase, fabrication, repair or use of any materials, goods or equipment and software which:

- are not placed in the inventory of durable equipment of the contractor;
  - are not treated as capital expenditure in accordance with the accounting conventions and policies of the contractor.
  - have a short life expectancy, certainly not greater than the duration of the work under the contract;
- Where it is the usual practice of the contractor to consider consumable costs (or some of them) as indirect costs, those costs can not be charged as direct eligible costs, but as indirect eligible costs.

## **6.2- ANNEX 2 - TABLES TO BE INSERTED IN ANNEX I TO THE CONTRACT FOR A NETWORK OF EXCELLENCE**

**6.2.1- Annual distribution of the grant for integration**

**Requested Grant for Integration**

**Reporting Periods Month x – Month y Total In which first six months**

Reporting Period 1 M1 – M12

Reporting Period 2 M13-M24

Reporting Period 3 M25-M36

Reporting Period 4 M37-M48

Reporting Period 5 M49-M60

Reporting Period 6 M61-M72

Reporting Period 7 M73-M84

**Total** Full duration

**6.3- ANNEX 3 – MAXIMUM REIMBURSEMENT RATES OF ELIGIBLE COSTS PER TYPE OF COST MODELS AND ACTIVITIES**

Instruments		Types of activities						
		Research and innovation-related activities	Demonstration activities	Training activities	Management of the consortium activities	Other specific activities (*)		
						Transnational access to infrastructures	Connectivity services	Others
Network of excellence					AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)			AC/FC/FCF : 100%
Integrated project		FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%	AC/FC/FCF : 100%	AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)			
Specific targeted research or innovation project		FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%		AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)			
Specific research project for SMEs	Cooperative Research	FC/FCF : 50% AC : 100%			AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)			
	Collective Research	FC/FCF : 50% AC : 100%		AC/FC/FCF : 100%	AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)			
Integrated infrastructures initiative		FC/FCF : 50% AC : 100%	FC/FCF : 35% AC : 100%		AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs)	UF/AC : 100%	AC/FC/FCF : 50%	AC/FC/FCF : 100%
Coordination action	Classical			AC/FC/FCF : 100% (FC indirect costs : flat rate(**))	AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs) (FC indirect costs : flat rate(**))			AC/FC/FCF : 100% (FC indirect costs : flat rate(**))
	for Infrastructures				AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs) (FC indirect costs : flat rate(**))			AC/FC/FCF : 100% (FC indirect costs : flat rate(**))
Specific support action					AC/FC/FCF : 100% (up to 7% of the contribution) (AC : eligible direct costs) (FC indirect costs : flat rate(**))	UF/AC : 100%		AC/FC/FCF : 100% (FC indirect costs : flat rate(**))

(\*) Other specific activities means:

- for Network of Excellence : Joint Programme of Activities, except management of the consortium activities.
- for Integrated infrastructures initiative: any specific activity covered by Annex I, including transnational access to infrastructures
- for Coordination Action: Coordination activities
- for Specific support action: any specific activity covered by Annex I, including transnational access to infrastructures

(\*\*): Flat rate for FC indirect costs : 20% of all their eligible direct costs minus the eligible direct costs of sub-contracts.

**6.4- Annex 4 : Table of the estimated breakdown of costs and receipts per type of activity and per contractor for a grant to the budget (Part of Annex I to the contract) - (Example of an Integrated Project)**

Detailed financial information – whole duration of the project										
Participant n°	Organisation short name	Cost model used	Estimated eligible costs and receipts (whole duration of the project)		Costs and EC contribution per type of activities				Total (5)=(1)+(2)+(3)+(4)	Total receipts
					RTD for Innovation-related activities (1)	Demonstration activities (2)	Training activities (3)	Consortium Management activities (4)		
			Eligible costs	Direct costs (a)						
				of which subcontracting						
				Indirect costs (b)						
				Total eligible costs (a)+(b)						
			Requested EC contribution							
			Eligible costs	Direct costs (a)						
				of which subcontracting						
				Indirect costs (b)						
				Total eligible costs (a)+(b)						
			Requested EC contribution							
			Eligible costs	Direct costs (a)						
				of which subcontracting						
				Indirect costs (b)						
				Total eligible costs (a)+(b)						
			Requested EC contribution							
TOTAL			Eligible costs							
			Requested EC contribution							

Partici pant n°	Organi- sation short name	Cost model used	Estimated eligible costs and receipts (first 18 months of the project)		Costs and EC contribution per type of activities				Total (5)=(1)+(2)+ (3)+(4) Month 1-18	Total receipts Month 1-18	
					RTD or Innovation- related activities (1) Month 1-18	Demonstration activities (2) Month 1-18	Training activities (3) Month 1-18	Consortium Management activities (4) Month 1-18			
			Eligible costs	<i>Direct costs (a)</i>							
				<i>of which subcontracting</i>							
				<i>Indirect costs (b)</i>							
				<i>Total eligible costs (a)+(b)</i>							
			Requested EC contribution								
			Eligible costs	<i>Direct costs (a)</i>							
				<i>of which subcontracting</i>							
				<i>Indirect costs (b)</i>							
				<i>Total eligible costs (a)+(b)</i>							
			Requested EC contribution								
			Eligible costs	<i>Direct costs (a)</i>							
				<i>of which subcontracting</i>							
				<i>Indirect costs (b)</i>							
				<i>Total eligible costs (a)+(b)</i>							
			Requested EC contribution								
TOTAL			Eligible costs								
TOTAL			Requested EC contribution								

**6.5- ANNEX 5 - GENERAL OVERVIEW OF THE DIFFERENT ANNEXES III (PER INSTRUMENT AND WHERE APPLICABLE) AND THE FINANCIAL STATEMENTS (FORM C) PER TYPE OF INSTRUMENT AND TYPE OF ACTION**

**6.5.1- Annexes III (Specific provisions) and VI (Financial Statements - Form C) per type of instrument and type of action**

Instruments		Annex III (Specific provisions)	Annex VI (Forms C)	
Network of excellence		●	●	See 6.5.2
Integrated project		●	●	See 6.5.3
Specific targeted research or innovation project			●	See 6.5.4
Specific research project for SMEs	Cooperative Research	●	●	See 6.5.5
	Collective Research	●	●	See 6.5.6
Integrated infrastructures initiative		●	●	See 6.5.7
Coordination action	Classical		●	See 6.5.8
	for Infrastructures		●	See 6.5.9
Specific support action	Classical		●	See 6.5.10
	for Infrastructures	●	●	See 6.5.11

There are 10 different types of Financial Statement per activity (Form C) depending on the instrument and its activities.

**6.5.2- Annex III and Form C for a Network of Excellence (NoE)****Annex III – Networks of Excellence****(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)****III.1 – Definitions**

In addition to the definitions in Article II.1, the following definitions apply to this *contract*:

**1. *Doctoral students*:** means students who are enrolled on a recognised course of doctoral studies run by one of the *contractors* and who do not meet the conditions to be considered as a *researcher*. In addition,

- ***number of doctoral students*:** means the headcount of those *doctoral students* that are both (a) identifiable by name at the time of the deadline for the submission to the *Commission* of the original proposal for this network of excellence and (b) engaged on research activities within the frame of then proposed network of excellence.

**2. *Grant for integration*:** means the maximum financial contribution from the *Community* to a network of excellence.

**3. *Joint programme of activities*:** means the description of the work to be carried out in order to implement the *project* as set out in Annex I. It consists of two parts:

- ***a detailed joint programme of activities*:** providing a detailed description of the work to be carried out over the eighteen-month period<sup>312</sup> covered by one reporting period as defined in Article 6 and the first six months of the following period;
- ***an outline joint programme of activities*:** providing an outline description of the work to be undertaken throughout the duration of the *project*, including a non-confidential action plan for the promotion of gender equality within the *project*.

**4. *Researchers*:** means research staff with at least four years of research experience or those in possession of a doctoral degree. Additionally, a *researcher* must either be an employee of one of the *contractors* or be working under its direct management authority in the frame of a formal agreement between the *contractor* and that *researcher's* employer. In addition,

- ***number of researchers*:** means the headcount of those *researchers* that both (a) are identifiable by name at the time of the deadline for the submission to the *Commission* of the original proposal for this network of excellence and (b) constitute the research capacities of the *contractors* within the frame of the then proposed network of excellence .

<sup>312</sup> The final *detailed joint programme of activities* may cover a shorter period.

### III.2 – Community financial contribution

#### 1. Calculation of the grant for integration

The *grant for integration* for the *project* is established according to the principles outlined in Article 14.1.a of the *Rules for Participation*.

The table below converts the *number of researchers* into an annual average grant to the *project* in respect of these *researchers*:

50 <i>researchers</i>	€ 1 million/year
100 <i>researchers</i>	€ 2 million/year
150 <i>researchers</i>	€ 3 million/year
250 <i>researchers</i>	€ 4 million/year
500 <i>researchers</i>	€ 5 million/year
1000 <i>researchers</i> and above	€ 6 million/year <sup>313</sup>

In addition, there will be a bonus for *doctoral students* equivalent to € 4,000/year multiplied by the *number of doctoral students*, up to a maximum of 10 % of the grant in respect of *researchers*.

The *grant for integration* shall be calculated by multiplying the average annual grant in respect of *researchers*, and any bonus for *doctoral students*, by the duration of the *project*.

*Researchers* and *doctoral students* of a *contractor* from a *third country* shall be included in the calculation of the *number of researchers* and *number of doctoral students* only when the *contractor* is to receive a *Community* financial contribution.

The *consortium*, when taking into account aspects such as the characteristics of the field of research concerned, may request a lower grant for integration than that which would have resulted from applying the method described above. In such cases the lower amount shall be the maximum financial contribution of the *Community* as identified in Article 5.

#### 2. Payment of the grant for integration

The annual distribution of the grant over the duration of the *project* will be specified in the *joint programme of activities* in Annex I.

The *Commission* shall pay the *Community* financial contribution in respect of a completed period provided that the following conditions are fulfilled:

- that the *project* is making satisfactory progress towards achieving its agreed objectives, in particular the durable integration of the research capacities of the *contractors*, as judged by the annual review foreseen in Article III.5 arranged by the *Commission*; and
- that the eligible costs, incurred in implementing the *joint programme of activities* for the period, calculated in accordance with Part B of Annex II, are at least equal to the *Community* financial contribution for that period.

<sup>313</sup> The grant for an intermediate number of *researchers* would be calculated by linear interpolation.

At the end of the *project*, the eligible costs incurred in implementing the *joint programme of activities* over the full duration of the *project* must exceed the *grant for integration*. If this is not the case, the payment for the last reporting period shall be limited to 95% of the eligible costs incurred in that period.

### **III.3 – Competitive calls**

1. When required by the terms of Annex I, the *consortium* shall identify and propose to the *Commission* the participation of new *contractors* following a competitive call in accordance with the provisions of this Article.
2. The *consortium* shall publish the competitive call at least in one international journal and in three different national newspapers in three different Member States or *Associated States*. It shall also be responsible for advertising the call widely using specific information support, particularly Internet sites on the Sixth Framework Programme, the specialist press and brochures and through the national contact points set up by Member States and *Associated States*. In addition, the publication and advertising of the call shall conform to any instructions and guidance notes established by the *Commission*. The *consortium* shall inform the *Commission* of the call and its content at least 90 days prior to its expected date of publication.
3. The competitive call shall remain open for the submission of proposals by interested parties for a period of at least five weeks.
4. The *consortium* shall evaluate offers received in the light of the criteria that governed the *Commission's* evaluation and selection of the *project*, defined in the relevant call for proposals, and with the assistance of at least two independent experts appointed by the *consortium* on the basis of criteria described in Article 11.2.b of the *Rules for Participation*.
5. The *consortium* shall notify the *Commission* of the proposed accession of a new *contractor/contractors* in accordance with Article 3. At the same time, it will inform the *Commission* of the means by which the competitive call was published and of the names and affiliation of the experts involved in the evaluation. The *Commission* may object to the accession of any new *contractor* within six weeks of the receipt of the notification.

### **III.4 – Updating the *joint programme of activities***

The *joint programme of activities* shall be updated annually. These annual updates may concern only the *detailed joint programme of activities*. They shall be submitted in accordance with the principles foreseen in Article II.7 for the submission of reports.

The *Commission* shall follow the same procedure for approving the updates of the *joint programme of activities* as that foreseen for reports in Article II.8.

### **III.5 – Annual review**

Upon receipt of the reports referred in Article II.7 and the proposed update of the *joint programme of activities* referred to in Article III.4, the *Commission* shall arrange a review of the work carried out under the *project* over the period concerned and shall examine the

proposed update of the *joint programme of activities*. The annual review shall assess in particular the progress of the *project* and the prospects for achieving its overall objectives.

The *Commission* shall communicate to the *consortium* the results of the review and any recommendations. The *consortium* shall take account of these recommendations and will submit a revised *joint programme of activities* if considered necessary either by the *Commission* or by the *consortium*.

### **III. 6 – Failure of the annual review**

If the *project* fails an annual review, the *Commission* may decide to terminate the *contract* or it may propose to the *consortium* to choose between the following options:

- to continue the *project* for a further period of twelve months on the basis of the *consortium's* proposed *joint programme of activities*, but without further *pre-financing* and without any finalisation of payment of the *Community* financial contribution in respect of the previous period.

or

- to terminate the *contract*.

If the *consortium* chooses the first option, at the end of this further period, the *Commission* shall arrange a new review, in accordance with the procedures established in Article III.5. If this time the *project* passes the review, the *Commission* shall pay the *Community* financial contribution for both previous periods in accordance with the principles of Article III.2.2 and the *contract* will continue as if the suspension of *pre-financing* had not taken place. If the *project* again fails the review, the *Commission* shall terminate the *contract*.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Network of Excellence**  
(to be completed by each contractor)

Type of instrument	<b>Network of Excellence</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party (Y1)	Legal Name	Cost model used
Third Party 2 (Y2)	Legal Name	Cost model used
Third Party 3 (Y3)	Legal Name	Cost model used
Third Party 4 (Y4)	Legal Name	Cost model used

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity			
	Joint Programme of Activities (A)		Of which Management of the Consortium	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs				
Of which subcontracting				
Indirect costs				
Adjustments to previous period(s)				
Total costs				

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

	Type of Activity			
	Joint Programme of Activities (A')		Of which Management of the Consortium	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>				

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm

Cost of the certificate

**Audit certificate(s) of the third party(ies) (Ys) (if necessary)**

Y1 : Legal name of the audit firm

Cost of the certificate

Y2 : Legal name of the audit firm

Cost of the certificate

Y3 : Legal name of the audit firm

Cost of the certificate

Y4 : Legal name of the audit firm

Cost of the certificate

If necessary add another Form C.

Total (Z) = (X) + (Ys)

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)**

**Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 3 (Y3)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 4 (Y4)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

If necessary add another Form C.

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

### **6.5.3- Annex III and Form C for an Integrated project (IP)**

#### **Annex III – Integrated Project**

**(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)**

##### **III.1 – Definitions**

In addition to the definitions in Article II.1, the following definitions apply to this *contract*:

**Implementation plan:** means the description of the work to be carried out in order to implement the *project* as set out in Annex I. It consists of two parts:

- **a detailed implementation plan:** providing a detailed description of the work to be carried out over the eighteen-month period<sup>314</sup> covered by one period as defined in Article 6 and the first six months of the following period, together with a detailed financial plan for the same eighteen-month period, containing estimates of eligible costs broken down by *contractor* and by activity.
- **an outline implementation plan:** providing an outline description of the work to be carried out throughout the duration of the *project*, including a non-confidential action plan for the promotion of gender equality within the *project*.

##### **III.2 – Competitive calls**

1. When required by the terms of Annex I, the *consortium* shall identify and propose to the Commission the participation of new *contractors* following a competitive call in accordance with the provisions of this Article.

2. The *consortium* shall publish the competitive call at least in one international journal and in three different national newspapers in three different Member States or *Associated States*. It shall also be responsible for advertising the call widely using specific information support, particularly Internet sites on the Sixth Framework Programme, the specialist press and brochures and through the national contact points set up by Member States and *Associated States*. The *consortium* shall inform the *Commission* of the call and its content at least 90 days prior to its expected date of publication. In addition, the publication and advertising of the call shall conform to any instructions and guidance notes established by the *Commission*.

3. The competitive call shall remain open for the submission of proposals by interested parties for a period of at least five weeks.

4. The *consortium* shall evaluate offers received in the light of the criteria that governed the *Commission's* original evaluation and selection of the *project*, defined in the relevant call for proposals, and with the assistance of at least two independent experts appointed by the *consortium* on the basis of criteria described in Article 11.2.b of the *Rules for Participation*.

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<sup>314</sup> The final *detailed implementation plan* may cover a shorter period.

5. The *consortium* shall notify the *Commission* of the proposed accession of a new *contractor/contractors* in accordance with Article 3. At the same time, it will inform the *Commission* of the means by which the competitive call was published and of the names and affiliation of the experts involved in the evaluation. The *Commission* may object to the accession of any new *contractor* within six weeks of the receipt of the notification.

### **III.3 – Updating the *implementation plan***

The *implementation plan* shall be updated annually. These annual updates may concern only the *detailed implementation plan*. They shall be submitted in accordance with the principles foreseen in Article II.7 for the submission of reports.

The *Commission* shall follow the same procedure for approving the updates of the *implementation plan* as that foreseen for reports in Article II.8.

### **III.4 - Annual review**

Upon receipt of the reports referred to in Article II.7 and the proposed update of the *implementation plan* referred to in Article III.3, the *Commission* shall arrange a review of the work carried out under the *project* over the period concerned and shall examine the proposed update of the *implementation plan*. The annual review shall assess in particular the progress of the *project* and the prospects for achieving its overall objectives.

The *Commission* shall communicate to the *consortium* the results of the review and any recommendations. The *consortium* shall take account of these recommendations and will submit a revised *implementation plan* if considered necessary either by the *Commission* or by the *consortium*.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for an Integrated Project**  
(to be completed by each contractor)

Type of instrument	<b>Integrated Project</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party 1 (Y1)	Legal Name	Cost model used
Third Party 2 (Y2)	Legal Name	Cost model used
Third Party 3 (Y3)	Legal Name	Cost model used
Third Party 4 (Y4)	Legal Name	Cost model used

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												
Total costs												

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

If a receipt is not allocated to an activity

	Type of Activity											
	Research and Technological Development / Innovation (A')		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities (E')		Total (F') = (A')+(B')+(C')+(D')+(E')	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>												

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €).

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm

Cost of the certificate

**Audit certificate(s) of the third party(ies) (Ys) (if necessary)**

Y1 : Legal name of the audit firm

Cost of the certificate

Y2 : Legal name of the audit firm

Cost of the certificate

Y3 : Legal name of the audit firm

Cost of the certificate

Y4 : Legal name of the audit firm

Cost of the certificate

If necessary add another Form C.

Total (Z) = (X) + (Ys)

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)**

**Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

<b>Contractor's Stamp</b>	<b>Name of the Person responsible for the work</b>	<b>Name of the duly authorised Financial Officer</b>
	<b>Date</b>	<b>Date</b>
	<b>Signature</b>	<b>Signature</b>

**6.5.4- Form C for an Specific Targeted Research or Innovation Project (STReP)**

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Specific Targeted Research or Innovation Project**  
(to be completed by each contractor)

Type of instrument	<b>Specific Targeted Project</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party 1 (Y1)	Legal Name		Cost model used	
Third Party 2 (Y2)	Legal Name		Cost model used	
Third Party 3 (Y3)	Legal Name		Cost model used	
Third Party 4 (Y4)	Legal Name		Cost model used	

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												
<b>Total costs</b>												

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

	Type of Activity											
	Research and Technological Development / Innovation (A')		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities (E')		Total (F') = (A')+(B')+(C')+(D')+(E')	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>												

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm		Cost of the certificate	
<b>Audit certificate(s) of the third party(ies) (Ys) (if necessary)</b>			
Y1 : Legal name of the audit firm		Cost of the certificate	
Y2 : Legal name of the audit firm		Cost of the certificate	
Y3 : Legal name of the audit firm		Cost of the certificate	
Y4 : Legal name of the audit firm		Cost of the certificate	
<b>If necessary add another Form C.</b>		<b>Total (Z) = (X) + (Ys)</b>	

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)**

**Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 3 (Y3)**

- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

### 6.5.5- Annex III and Form C for a Specific Cooperative Research Project for SMEs (CRAFT)

This Annex III has been approved by Decision of the Commission: C(2003)3305 dated 22.09.03

## SPECIFIC PROVISIONS RELATED TO COOPERATIVE RESEARCH

### III.1 - Definitions

In addition to the definitions of Article II.1:

- **SME contractor:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.
- **RTD Performer:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.
- **Other enterprise or end user:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.

### III.2- Performance obligations

1. In addition to the obligations identified in Article II.3.1, the *consortium* shall :

a) ensure that a copy of the *consortium agreement* signed by all *contractors* is made available to the *Commission* [30][x]days after the *contract* enters into force. The *consortium agreement* shall establish the allocation between the *contractors* of the *Community* financial contribution made to the *consortium* and, in particular, it shall contain provisions that enable each of the *RTD Performers* to receive from the *consortium* 100 % of its eligible costs incurred for research and technological development or innovation activities during the *project*, within any ceiling specified in the *consortium agreement*.

The fixed starting date of the *project* shall be established in Article 4.2 based on the following procedure. The *project* shall not start until the *Commission* has received a duly signed copy of the *consortium agreement* that respects the provision indicated in the sub-paragraph above regarding distribution of the *Community* financial contribution. The *start date* of the *project* will be communicated to the *contractors* by the *Commission*.

b) ensure that the *RTD Performers* account for at least 40 % of the total eligible costs for research and technological development or innovation activities of the *project*. If at the end of the *project* the eligible costs of the research and technological development or innovation activities claimed by the *RTD Performers* are less than 40 % of the total eligible costs for such activities of the *project*, the *Community* financial contribution shall be adjusted to ensure that the eligible costs reimbursed meet the ratio of 40% for *RTD performers* and 60% for the remaining *contractors*.

2. In addition to the obligations identified in Article II.3.2 k), each *contractor* shall inform the *Commission* of any change in its status that threatens to affect its ability to meet the criteria established in the definitions of Article III.1.

### **III. 3 – Financial collective responsibility of the *consortium***

The provisions of Article II.18 do not apply to this *contract*. The *Commission* may require financial guarantees as established by the provisions of Article 182 of the rules for implementing the *Financial Regulation*.

### **III.4 – Cost reporting models**

In addition to the provisions of Article II.22.4:

- By derogation to the principle established above, any *RTD performer* that is eligible to use the AC reporting model may opt for the FCF reporting model in this *contract* and in its future participations as an *RTD performer* in collective and cooperative research projects under the Sixth Framework Programme, provided that it has an accounting system that allows the identification of its full direct costs relating to the *project*.

### **III. 5 – Ownership of knowledge**

Paragraphs 1 and 2 of Article II.32 are replaced by the following:

1. *Knowledge* arising from work carried out under the *project* shall be the joint property of the *SME contractors*.
2. The *SME contractors* shall agree amongst themselves on the allocation and the terms of exercising the ownership of the *knowledge*.

### **III. 6 – Protection of *knowledge***

The first sentence of Article II.33.3 is replaced by the following:

A *contractor* may publish or allow the publication of data, on whatever medium, concerning *knowledge* it owns or *knowledge* it generated under work carried out within the *project*, provided that this does not affect the protection of that *knowledge*.

### **III. 7 - Access rights**

The last sentence of Article II.35.2 (a) is replaced by the following:

*RTD performers* shall grant *access rights* to the other *contractors* to *pre-existing know how* necessary for the execution of the *project*, on a royalty-free basis.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Specific Cooperative Research Project for SMEs**

(to be completed by each contractor)

<b>Type of instrument</b>	<b>Specific Research Project for SMEs</b>	<b>Type of Action (if necessary)</b>	<b>Cooperative Research (CRAFT)</b>
<b>Project Title (or Acronym)</b>		<b>Contract n°</b>	
<b>Contractor's Legal Name</b>			
<b>Legal Type</b>			
<b>Contact Person</b>		<b>Telephone</b>	
<b>Telecopy</b>		<b>E-mail</b>	
<b>Cost model used (AC//FC or FCF)</b>		<b>Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)</b>	
<b>Period from</b>		<b>To</b>	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party (Y1)	Legal Name	Cost model used
Third Party 2 (Y2)	Legal Name	Cost model used
Third Party 3 (Y3)	Legal Name	Cost model used
Third Party 4 (Y4)	Legal Name	Cost model used

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23 a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Direct costs</b>												
<i>Of which subcontracting</i>												
<b>Indirect costs</b>												
<b>Adjustments to previous period(s)</b>												

<b>Total costs</b>												
<b>3- Declaration of receipts (in €)</b>												
If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.												
If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.												
<b>Type of Activity</b>												
<b>Research and Technological Development / Innovation (A')</b>		<b>Demonstration (B')</b>		<b>Training (C')</b>		<b>Management of the Consortium (D')</b>		<b>Other Specific Activities (E')</b>		<b>Total (F') = (A')+(B')+(C')+(D')+(E')</b>		
<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Third Party(ies)</b>
<b>Total receipts</b>												

<b>4- Declaration of interest generated by the pre-financing (in €)</b>												
To be completed only by the coordinator.												
Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)												
If yes, please indicate the amount (in €)												

<b>5- Request of FP6 Financial contribution (in €)</b>												
For this period, the FP6 Community financial contribution requested is equal to (amount in €)												

<b>6- Audit certificates</b>												
According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)												
If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)												
If No, what are the periods covered by this(those) audit certificate(s) ? From – To												
What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?												
<b>Audit certificate of the contractor (X)</b>												
<b>Legal name of the audit firm</b>						<b>Cost of the certificate</b>						
<b>Audit certificate(s) of the third party(ies) (Ys) (if necessary)</b>												
Y1 : Legal name of the audit firm						Cost of the certificate						
Y2 : Legal name of the audit firm						Cost of the certificate						
Y3 : Legal name of the audit firm						Cost of the certificate						
Y4 : Legal name of the audit firm						Cost of the certificate						
If necessary add another Form C.						Total (Z) = (X) + (Ys)						
Reminders: The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium". The required audit certificate(s) is(are) attached to this Financial Statement.												

<b>7- Conversion rates</b>												
Costs incurred in currencies other than EURO shall be reported in EURO. Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.												
<b>Contractor</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												
<b>Third Party(ies) (if necessary)</b>												
<b>Third Party 1 (Y1)</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												
<b>Third Party 2 (Y2)</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												

<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

### **8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

<b>Contractor's Stamp</b>	<b>Name of the Person responsible for the work</b>	<b>Name of the duly authorised Financial Officer</b>
	<b>Date</b>	<b>Date</b>
	<b>Signature</b>	<b>Signature</b>

### 6.5.6- Annex III and Form C for a Specific Collective Research Project for SMEs (Collective)

This Annex III has been approved by Decision of the Commission: C(2003)3305 dated 22.09.03

## SPECIFIC PROVISIONS RELATED TO COLLECTIVE RESEARCH

### III.1 - Definitions

In addition to the definitions of Article II.1:

- **Enterprise grouping:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.
- **RTD Performer:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.
- **SME contractor:** means a *contractor*, referred to as such in Article 1.2 of the *contract* and which meets the definition specified in the call for proposals to which the *project* was submitted.

### III.2- Performance obligations

1. In addition to the obligations identified in Article II.3.1, the *consortium* shall :

a) ensure that a copy of the *consortium agreement* signed by all *contractors* is made available to the *Commission* [30][x]days after the *contract* enters into force. The *consortium agreement* shall establish the allocation between the *contractors* of the *Community* financial contribution made to the *consortium* and, in particular, it shall contain provisions that enable each of the *RTD Performers* to receive from the *consortium* 100 % of its eligible costs incurred for research and technological development or innovation activities during the *project*, within any ceiling specified in the *consortium agreement*.

The fixed starting date of the *project* shall be established in Article 4.2 according to the following procedure. The *project* shall not start until the *Commission* has received a duly signed copy of the *consortium agreement* that respects the provision indicated in the sub-paragraph above regarding distribution of the *Community* financial contribution. The *start date* of the *project* will be communicated to the *contractors* by the *Commission*.

b) ensure that the *RTD Performers* account for at least 40 % of the total eligible costs for research and technological development or innovation activities of the *project*. If at the end of the *project* the eligible costs of the research and technological development or innovation activities claimed by the *RTD Performers* are less than 40 % of the total eligible costs for such activities of the *project*, the *Community* financial contribution shall be adjusted to ensure that the eligible costs reimbursed meet the ratio of 40% for *RTD performers* and 60% for the remaining *contractors*.

2. In addition to the obligations identified in Article II.3.2 k), each *contractor* shall inform the *Commission* of any change in its status that threatens to affect its ability to meet the criteria established in the definitions of Article III.1.

### **III. 3 – Financial collective responsibility of the *consortium***

The provisions of Article II.18 do not apply to this *contract*. The *Commission* may require financial guarantees as established by the provisions of Article 182 of the rules for implementing the *Financial Regulation*.

### **III.4 – Cost reporting models**

In addition to the provisions of Article II.22.4:

- By derogation to the principle established above, any *RTD performer* that is eligible to use the AC reporting model may opt for the FCF reporting model in this *contract* and in its future participations as an *RTD performer* in collective and cooperative research projects under the Sixth Framework Programme, provided that it has an accounting system that allows the identification of its full direct costs relating to the *project*.

### **III. 5 – Ownership of knowledge**

Paragraphs 1 and 2 of Article II.32 are replaced by the following:

3. *Knowledge* arising from work carried out under the *project* shall be the joint property of the *enterprise grouping(s)*.
4. The *enterprise grouping(s)* shall agree amongst themselves on the allocation and the terms of exercising the ownership of the *knowledge*.

### **III. 6 – Protection of *knowledge***

The first sentence of Article II.33.3 is replaced by the following:

A *contractor* may publish or allow the publication of data, on whatever medium, concerning *knowledge* it owns or *knowledge* it generated under work carried out within the *project*, provided that this does not affect the protection of that *knowledge*.

### **III. 7 - Access rights**

The last sentence of Article II.35.2 (a) is replaced by the following:

*RTD performers* shall grant *access rights* to the other *contractors* to *pre-existing know how* necessary for the execution of the *project*, on a royalty-free basis.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Specific Collective Research Project for SMEs**

(to be completed by each contractor)

Type of instrument	Specific Research Project for SMEs	Type of Action (if necessary)	Collective Research
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party (Y1)	Legal Name	Cost model used
Third Party 2 (Y2)	Legal Name	Cost model used
Third Party 3 (Y3)	Legal Name	Cost model used
Third Party 4 (Y4)	Legal Name	Cost model used

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23 a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												

<b>Total costs</b>												
<b>3- Declaration of receipts (in €)</b>												
If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.												
If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.												
<b>Type of Activity</b>												
<b>Research and Technological Development / Innovation (A')</b>		<b>Demonstration (B')</b>		<b>Training (C')</b>		<b>Management of the Consortium (D')</b>		<b>Other Specific Activities (E')</b>		<b>Total (F') = (A')+(B')+(C')+(D')+(E')</b>		
<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	
<b>Total receipts</b>												

<b>4- Declaration of interest generated by the pre-financing (in €)</b>												
To be completed only by the coordinator.												
Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)												
If yes, please indicate the amount (in €)												

<b>5- Request of FP6 Financial contribution (in €)</b>												
For this period, the FP6 Community financial contribution requested is equal to (amount in €)												

<b>6- Audit certificates</b>												
According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)												
If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)												
If No, what are the periods covered by this(those) audit certificate(s) ? From – To												
What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?												
<b>Audit certificate of the contractor (X)</b>												
<b>Legal name of the audit firm</b>						<b>Cost of the certificate</b>						
<b>Audit certificate(s) of the third party(ies) (Ys) (if necessary)</b>												
Y1 : Legal name of the audit firm						Cost of the certificate						
Y2 : Legal name of the audit firm						Cost of the certificate						
Y3 : Legal name of the audit firm						Cost of the certificate						
Y4 : Legal name of the audit firm						Cost of the certificate						
If necessary add another Form C.						Total (Z) = (X) + (Ys)						
Reminders: The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium". The required audit certificate(s) is(are) attached to this Financial Statement.												

<b>7- Conversion rates</b>												
Costs incurred in currencies other than EURO shall be reported in EURO. Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.												
<b>Contractor</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												
<b>Third Party(ies) (if necessary)</b>												
<b>Third Party 1 (Y1)</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												
<b>Third Party 2 (Y2)</b>												
- Conversion rate of the date of incurred actual costs? (YES / NO)												
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)												

<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

<b>Contractor's Stamp</b>	<b>Name of the Person responsible for the work</b>	<b>Name of the duly authorised Financial Officer</b>
	<b>Date</b>	<b>Date</b>
	<b>Signature</b>	<b>Signature</b>

### **6.5.7- Annex III and Form C for an Integrated Infrastructures Initiative (I<sup>3</sup>)**

This Annex III has been approved by Decision of the Commission: C(2003)2029 dated 02.07.03

## **ANNEX III – Integrated Infrastructures Initiatives**

### **PART A – GENERAL PROVISIONS FOR ALL THE ACTIVITIES CARRIED OUT BY THE CONSORTIUM**

#### **III.1 Definitions**

In addition to the definitions in Article II.1, the following definitions apply to the *contract*:

**Implementation plan:** means the description of the work to be carried out in order to implement the *project* as set out in Annex I. It consists of two parts:

- a **detailed implementation plan:** providing a detailed description of the work to be carried out over a reporting period, as defined in Article 6 of the contract, and the first six months of the following reporting period, together with a detailed financial plan for those periods combined, containing estimates of eligible costs broken down by *contractor* and by activity.
- an **outline implementation plan:** providing an outline description of the work to be carried out throughout the duration of the *project*.

#### **III.2 – Updating the *implementation plan***

The *implementation plan* shall be updated after the expiration of each reporting period.

The periodic updates to the *implementation plan* may concern only the *detailed implementation plan*. They shall be submitted in accordance with the principles foreseen in Article II.7 for the submission of reports.

The Commission shall follow the same procedure for approving the updates of the *implementation plan* as that foreseen for reports in Article II.8.

#### **III.3 - Review**

Upon receipt of the reports referred to in Article II.7 and the proposed update of the *implementation plan* referred to in Article III.2, the Commission shall arrange a review of the work carried out under the *project* over the period concerned and shall examine the proposed update of the *implementation plan*. The review shall assess in particular the progress of the *project* and the prospects for achieving its overall objectives.

The Commission shall communicate to the *consortium* the results of the review and any recommendations. The *consortium* shall take account of these recommendations and will submit a revised *implementation plan* if considered necessary either by the Commission or by the *consortium*.

**PART B – SPECIFIC PROVISIONS FOR TRANSNATIONAL ACCESS TO RESEARCH INFRASTRUCTURES ACTIVITY****III.4 : Definitions**

In addition to those of Article II.1 and III.1, the following definitions shall apply to the *contract* :

1. ***Access provider*** : means the *contractor* that is in charge of providing access to the *infrastructure*, as specified in Annex I.
2. ***Infrastructure*** : means the research facility (facilities) to which *user groups* are given transnational access under the *project*, as specified in Annex I.
3. ***International European Interest Organisations*** : means an *international organisation*, the majority of whose members are European Community Member States or *Associated States*, and whose principal objective is to promote scientific and technological co-operation in Europe.
4. ***User*** : means a researcher within a *user group*, including the *user group* leader.
5. ***User group*** : means a research team of one or more researchers given access to the *infrastructure* under the *project*. Each *user group* is led by a *user group* leader.

**III.5 : Performance obligations**

1. For activities aimed at providing transnational access, the *access provider* shall, in addition to the provisions of Annex I and Article II.3 :
  - (a) publicise widely, including on a dedicated Web page on the Internet, the access offered under this *contract* so that researchers throughout the Member States and the *Associated States* who might wish to have access to the *infrastructure* may be made aware of the possibilities open to them;
  - (b) select the *user groups* in accordance with Article III.6;
  - (c) provide access free of charge to selected *user groups*, including all the infrastructural, logistical, technological and scientific support (including training courses for *users*) that is normally provided to external researchers given access to the *infrastructure*;
  - (d) ensure that *users* comply with the terms and conditions of this contract;
  - (e) maintain, on a regular basis and in accordance with its own usual accounting principles, appropriate documentation to support and justify the amount of access reported; this documentation shall include records of the names, nationalities, and home institutions of *users* within the *user groups*, as well as the nature and quantity of access provided to them.
2. For *access providers* offering access to services described in Annex I as being based on free communications, the provisions of Article III.5 (b) to (e) and Article III.6 of this Annex shall not apply to the provision of those services.

### III.6 : Eligibility and selection of the *user groups*

1. To be eligible to benefit from access to the *infrastructure* under the *contract*, a *user group* must satisfy the following two conditions:

- both the *user group* leader and the majority of the *users* must come from Member States or Associated States;
- both the *user group* leader and the majority of the *users* must come from a country other than the country(ies) where the legal entity(ies) operating the *infrastructure* is(are) established.

The second condition shall not apply when the *access provider* is an *international European interest organisation* or the *JRC*.

When the *infrastructure* is composed of several research facilities operated by different legal entities, the second condition shall apply to each facility.

2. Only *user groups* that are entitled to disseminate the *knowledge* they have generated under the *project* are eligible to benefit from access to the *infrastructure* under the *contract*. The sole exception to this rule shall be *user groups* from an *SME* that wish to use the *infrastructure* for the first time.

3. Prospective *user groups* requesting access shall be required by the *access provider* to submit in writing a description of the work that they wish to carry out and the names, nationalities and home institutions of the researchers expected to take part.

4. The *access provider* shall set up a *user group* selection panel, which will assist the *access provider* in the selection of the *user groups*, according to the conditions set out in this Article. The *user group* selection panel shall assess all proposals received and recommend a short-list of the *user groups* that should benefit under the *contract*. In so doing, it will apply the principles of transparency, fairness and impartiality.

5. The *user group* selection panel shall be composed of international experts in the field, at least half of whom shall be independent and external to the staff of the *infrastructure*, unless otherwise specified in Annex I.

6. The *user group* selection panel shall base its selection on scientific merit, taking into account that priority should be given to *user groups* who:

- have not previously used the *infrastructure*, and
- are working in countries where no such research *infrastructures* exist.

The Commission may, within the overall scope and financial limits of the *contract*, request the *access provider* to follow additional priorities in the selection of *user groups* in the *interest of the Community*. The *access provider* shall not unreasonably withhold its agreement to such requests.

7. Before selecting *user groups* requiring access exceeding 3 months, the *access provider* shall seek prior written approval of the Commission, unless such longer access is foreseen in Annex I.

### III.7 : Reports and deliverables

For activities aimed at providing transnational access, the *access provider* shall, in addition to the provisions of Article II.7, submit to the Commission for approval:

- (a) an initial database report, to be updated annually, if necessary, suitable for publication in an electronic database and in the yearbooks published by the Commission;

(b) a section in the periodic activity reports required by Article II.7, reporting on the access activity, that shall include the membership of the *user group* selection panel as well as the amount of access provided to the *user groups*, with the description of their work, and the names and home institutions of *users*.

### **III.8 : Confidentiality**

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to confidentiality as referred to for the *access provider* in Article II.9.

In addition to the provisions of Article II.9, the *access provider* shall require the *users* to keep confidential any document, information, *knowledge*, *pre-existing know-how* or other documents communicated to them in relation to the *project*.

### **III.9 : Publicity**

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to publicity as referred to for the *access provider* in Article II.12.

In particular, the *access provider* shall, throughout the duration of the *project*, take any appropriate measure to ensure that, in their publications, *users* make suitable publicity to the access provided to them under the *contract* by the European Community, in conformity with Article II.12.

In addition to the information referred to in paragraph 2 of Article II.12, the Commission shall be authorised to publish, in whatever form and on or by whatever medium, including the Internet, the list of the *users*.

### **III.10 : Access rights**

In addition to the provisions of Article II.35, the *access provider* shall ensure that the *users* enjoy, on a royalty-free basis, *access rights* to the *pre-existing know-how* of the *access provider* and to the *knowledge*, if that *pre-existing know-how* or *knowledge* is needed to carry out their own work under the *project*.

### **III.11 : Incompatible or restrictive commitments**

In addition to the provisions of Article II.36, the *access provider* required to grant *access rights* shall inform, as soon as possible, the *users* of any restriction which might substantially affect the granting of *access rights*, as the case may be.

### **III.12 : Cost reporting models**

For activities aimed at providing transnational access, this Article shall replace Article II.22 of Annex II.

1. There are two models for reporting costs under the *contract*:
  - eligible direct costs, calculated as specified in paragraph 2 of this Article, and a flat rate for indirect costs, are charged by an *access provider* using the user fee reporting model (UF). The flat rate is 20% of all direct costs minus costs of subcontracts,

which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.

- eligible direct additional costs and a flat rate for indirect costs are charged by an *access provider* using the additional cost model (AC). The flat rate is 20% of all direct additional costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.

2. The *access provider* may identify its eligible direct costs, related to the access provided to the *users* given access to the *infrastructure*, on the basis of a user fee (UF), according to the following formula :

**user fee = unit cost x actual quantity of access delivered within the project**

The unit cost, negotiated between the Commission and the *access provider*, shall be defined on the basis of the average annual direct costs of providing access to the *infrastructure*, divided by the total annual quantity of access provided to the researchers normally having access to the *infrastructure* (excluding the *user groups* supported for access by the Community). These direct costs may cover also preparatory work and specific training courses for the *users* but shall exclude all contributions to the capital investments of the *infrastructure*. This unit cost shall be specified in Annex I to the *contract* and is to be used throughout the duration of the *contract*.

Eligible direct costs may also include the travel and subsistence costs related to visits by *users* and to the *user group* selection panel, where necessary.

When the *infrastructure* is composed of several research facilities with different access costs, a separate unit cost may be defined for each facility.

3. *Access providers* which may use the additional cost reporting model (AC) are:

- non-commercial or non-profit organisations established either under public law or private law, or
  - international organisations,
- which do not have an accounting system that allows the share of their direct and indirect costs relating to the *project* to be distinguished.

4. All *access providers* may use the user fee cost reporting model (UF), provided they have an accounting system that allows their direct costs relating to the *project* to be identified.

5. Any *access providers* using for the other activities of the *project* one of the full cost reporting models established in Article II.22.1 (FC or FCF) must use the user fee cost reporting model (UF) for activities aimed at providing transnational access.

6. Where an *access provider* may choose between the UF or AC cost reporting model for activities aimed at providing transnational access, it shall apply that model for the same type of activities in all *contracts* established under the Sixth Framework Programme which include activities aimed at providing transnational access.

**PART C – SPECIFIC PROVISIONS FOR COMMUNICATION NETWORK DEVELOPMENT ACTIVITY**

**III.13: Definitions**

In addition to those of Article II.1 and Articles III.1 and 4, the following definitions apply to the contract:

***Connectivity***: means a set of one or more circuits allowing for the transmission of full duplex bit streams between defined end points, as specified in Annex I.

***Connectivity services***: means any other specific activities as foreseen in Article II.2.5 to provide *connectivity*.

**III.14: Financial provisions**

As an exception to Article II.2.5, for the continued provision and upgrading of the required *connectivity services* as specified in Annex I, the maximum reimbursement rate shall be 50% of eligible costs, irrespective of which of the cost reporting models is used.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for Integrated Initiatives for Infrastructures**

(to be completed by each contractor)

Type of instrument	<b>Integrated Initiatives for Infrastructures</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC/FC or FCF) / (UF: User Fee) (*)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	
Period from		To	

(\*) If UF is used under "other specific activities: transnational access/connectivity", please mention the two costs models used (eg: FC / UF or FCF / UF)

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party (Y1)	Legal Name	Cost model used (*)
Third Party 2 (Y2)	Legal Name	Cost model used (*)
Third Party 3 (Y3)	Legal Name	Cost model used (*)
Third Party 4 (Y4)	Legal Name	Cost model used (*)

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity													
	Research and Technological Development / Innovation (A)		Demonstration (B)		Management of the Consortium (C)		Other Specific Activities: Coordination / Networking (D)		Other Specific Activities: Transnational Access / Connectivity (E)		Other Specific Activities (F)		Total (G) = (A)+(B)+(C)+(D)+(E)+(F)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs														
Of which subcontracting														
Indirect costs														
Adjustments to previous period(s)														

<b>Total costs</b>															
<b>3- Declaration of receipts (in €)</b>															
If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.															
If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.															
<b>Type of Activity</b>															
<b>Research and Technological Development / Innovation (A')</b>		<b>Demonstration (B')</b>		<b>Management of the Consortium (C')</b>		<b>Other Specific Activities: Coordination / Networking (D')</b>		<b>Other Specific Activities: Transnational Access / Connectivity (E')</b>		<b>Other Specific Activities (F')</b>		<b>Total (G') = (A')+(B')+(C')+(D')+(E')+(F')</b>			
<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>	<b>Contractor</b>	<b>Third Party(ies)</b>
<b>Total Receipts</b>															

<b>4- Declaration of interest generated by the pre-financing (in €)</b>	
To be completed only by the coordinator.	
Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)	
If yes, please indicate the amount (in €)	

<b>5- Request of FP6 Financial contribution (in €)</b>	
For this period, the FP6 Community financial contribution requested is equal to (amount in €)	

<b>6- Audit certificates</b>	
According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)	
If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)	
If No, what are the periods covered by this(those) audit certificate(s) ?	
From – To	
What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?	
<b>Audit certificate of the contractor (X)</b>	
Legal name of the audit firm	Cost of the certificate
<b>Audit certificate(s) of the third party(ies) (Ys) (if necessary)</b>	
Y1 : Legal name of the audit firm	Cost of the certificate
Y2 : Legal name of the audit firm	Cost of the certificate
Y3 : Legal name of the audit firm	Cost of the certificate
Y4 : Legal name of the audit firm	Cost of the certificate
If necessary add another Form C.	
Total (Z) = (X) + (Ys)	

Reminders:  
 The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".  
 The required audit certificate(s) is(are) attached to this Financial Statement.

<b>7- Conversion rates</b>	
Costs incurred in currencies other than EURO shall be reported in EURO.	
Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.	
<b>Contractor</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party(ies) (if necessary)</b>	
<b>Third Party 1 (Y1)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 2 (Y2)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

**6.5.8- Form C for a Coordination Action (CA)**

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Coordination Action**  
(to be completed by each contractor)

Type of instrument	<b>Coordination Action</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	<b>Flat Rate of 20% of Direct Costs, except subcontracting</b>
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party 1 (Y1)	Legal Name		Cost model used	
Third Party 2 (Y2)	Legal Name		Cost model used	
Third Party 3 (Y3)	Legal Name		Cost model used	
Third Party 4 (Y4)	Legal Name		Cost model used	

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities : Coordination (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												
Total costs												

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

Type of Activity											
Research and Technological Development / Innovation (A')		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities : Coordination (E')		Total (F') = (A')+(B')+(C')+(D')+(E')	
Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>											

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm

Cost of the certificate

**Audit certificate(s) of the third party(ies) (Ys) (if necessary)**

Y1 : Legal name of the audit firm

Cost of the certificate

Y2 : Legal name of the audit firm

Cost of the certificate

Y3 : Legal name of the audit firm

Cost of the certificate

Y4 : Legal name of the audit firm

Cost of the certificate

If necessary add another Form C.

Total (Z) = (X) + (Ys)

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)**

**Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 3 (Y3)**

- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

**6.5.9- Special clause and Form C for a Coordination Action for Infrastructures  
(CA Infrastructures)**

**Special clause 11) Ineligibility of costs incurred in relation to an activity**

Any costs incurred for [*identify*] activity(ies) are not eligible for reimbursement under the *project*.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Coordination Action for Infrastructures**

(to be completed by each contractor)

Type of instrument	<b>Coordination Action</b>	Type of Action (if necessary)	<b>Infrastructures</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	<b>Flat Rate of 20% of Direct Costs, except subcontracting</b>
Period from		To	

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party 1 (Y1)	Legal Name		Cost model used	
Third Party 2 (Y2)	Legal Name		Cost model used	
Third Party 3 (Y3)	Legal Name		Cost model used	
Third Party 4 (Y4)	Legal Name		Cost model used	

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities : Coordination (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												
Total costs												

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

	Type of Activity											
	Research and Technological Development / Innovation (A')		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities : Coordination (E')		Total (F') = (A)+(B)+(C)+(D)+ (E')	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>												

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm

Cost of the certificate

**Audit certificate(s) of the third party(ies) (Ys) (if necessary)**

Y1 : Legal name of the audit firm

Cost of the certificate

Y2 : Legal name of the audit firm

Cost of the certificate

Y3 : Legal name of the audit firm

Cost of the certificate

Y4 : Legal name of the audit firm

Cost of the certificate

If necessary add another Form C.

Total (Z) = (X) + (Ys)

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)****Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 3 (Y3)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

**6.5.10- Form C for a Specific Support Action (SSA)**

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Specific Support Action**  
(to be completed by each contractor)

Type of instrument	<b>Specific Support Action</b>	Type of Action (if necessary)	<b>N.A.</b>
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC//FC or FCF)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	<b>Flat Rate of 20% of Direct Costs, except subcontracting(*)</b>
Period from		To	

(\*) Except otherwise agreed in Article 9 [special clauses] of the contract.

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)

If Yes, please provide the following information

Third Party 1 (Y1)	Legal Name	Cost model used
Third Party 2 (Y2)	Legal Name	Cost model used
Third Party 3 (Y3)	Legal Name	Cost model used
Third Party 4 (Y4)	Legal Name	Cost model used

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annexes I and III of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23.a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity											
	Research and Technological Development / Innovation (A)		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities (E)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Direct costs												
Of which subcontracting												
Indirect costs												
Adjustments to previous period(s)												
Total costs												

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

	Type of Activity											
	Research and Technological Development / Innovation (A')		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities (E')		Total (F') = (A')+(B')+(C')+(D')+(E')	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
<b>Total receipts</b>												

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ?

From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm

Cost of the certificate

**Audit certificate(s) of the third party(ies) (Ys) (if necessary)**

Y1 : Legal name of the audit firm

Cost of the certificate

Y2 : Legal name of the audit firm

Cost of the certificate

Y3 : Legal name of the audit firm

Cost of the certificate

Y4 : Legal name of the audit firm

Cost of the certificate

If necessary add another Form C.

Total (Z) = (X) + (Ys)

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

**Contractor**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party(ies) (if necessary)**

**Third Party 1 (Y1)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

**Third Party 2 (Y2)**

- Conversion rate of the date of incurred actual costs? (YES / NO)

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)

<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23.1 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

<b>Contractor's Stamp</b>	<b>Name of the Person responsible for the work</b>	<b>Name of the duly authorised Financial Officer</b>
	<b>Date</b>	<b>Date</b>
	<b>Signature</b>	<b>Signature</b>

### **6.5.11- Special clause and Form C for a Specific Support Action for Infrastructures (SSA-ARI)**

#### **Special Clause 17**

#### **17) Specific support actions involving Transnational Access**

##### **A. Definitions**

In addition to the provisions of Article II.1, the following definitions shall apply to this *contract*:

- a. *Access provider*:** means the *contractor* that is in charge of providing access to the *infrastructure*, as specified in Annex I.
- b. *Infrastructure*:** means the research facility (facilities) to which *user groups* are given transnational access under the *project*, as specified in Annex I.
- c. *International European Interest Organisations*:** means an *international organisation*, the majority of whose members are European Community Member States or *Associated States*, and whose principal objective is to promote scientific and technological co-operation in Europe.
- d. *User*:** means a researcher within a *user group*, including the *user group* leader.
- e. *User group*:** means a research team of one or more researchers given access to the *infrastructure* under the *project*. Each *user group* is led by a *user group* leader.

##### **B. Performance obligations**

For activities aimed at providing transnational access, the *access provider* shall, in addition to the provisions of Annex I and Article II.3:

- (a) publicise widely, including on a dedicated Web page on the Internet, the access offered under this *contract* so that researchers throughout the Member States and the *Associated States* who might wish to have access to the *infrastructure* may be made aware of the possibilities open to them;
- (b) select the *user groups* in accordance with part C of this Article;
- (c) provide access free of charge to selected *user groups*, including all the infrastructural, logistical, technological and scientific support (including training courses for *users*) that is normally provided to external researchers given access to the *infrastructure*;
- (d) ensure that *users* comply with the terms and conditions of this contract;
- (e) maintain, on a regular basis and in accordance with its own usual accounting principles, appropriate documentation to support and justify the amount of access reported; this documentation shall include records of the names, nationalities, and home institutions of *users* within the *user groups*, as well as the nature and quantity of access provided to them.

##### **C: Eligibility and selection of the *user groups***

1. To be eligible to benefit from access to the *infrastructure* under the *contract*, a *user*

*group* must satisfy the following two conditions:

- both the *user group* leader and the majority of the *users* must come from Member States or *Associated States*;
- both the *user group* leader and the majority of the *users* must come from a country other than the country(ies) where the legal entity(ies) operating the *infrastructure* is(are) established.

The second condition shall not apply when the *access provider* is an *international European interest organisation* or the *JRC*.

When the *infrastructure* is composed of several research facilities operated by different legal entities, the second condition shall apply to each facility.

2. Only *user groups* that are entitled to disseminate the *knowledge* they have generated under the *project* are eligible to benefit from access to the *infrastructure* under the *contract*. The sole exception to this rule shall be *user groups* from an *SME* that wish to use the *infrastructure* for the first time.

3. Prospective *user groups* requesting access shall be required by the *access provider* to submit in writing a description of the work that they wish to carry out and the names, nationalities and home institutions of the researchers expected to take part.

4. The *access provider* shall set up a *user group* selection panel, which will assist the *access provider* in the selection of the *user groups*, according to the conditions set out in this Article. The *user group* selection panel shall assess all proposals received and recommend a short-list of the *user groups* that should benefit under the *contract*. In so doing, it will apply the principles of transparency, fairness and impartiality.

5. The *user group* selection panel shall be composed of international experts in the field, at least half of whom shall be independent and external to the staff of the *infrastructure*, unless otherwise specified in Annex I.

6. The *user group* selection panel shall base its selection on scientific merit, taking into account that priority should be given to *user groups* who:

- have not previously used the *infrastructure*, and
- are working in countries where no such research *infrastructures* exist.

The *Commission* may, within the overall scope and financial limits of the *contract*, request the *access provider* to follow additional priorities in the selection of *user groups* in the *interest of the Community*. The *access provider* shall not unreasonably withhold its agreement to such requests.

7. Before selecting *user groups* requiring access exceeding 3 months, the *access provider* shall seek prior written approval of the *Commission*, unless such longer access is foreseen in Annex I.

#### **D. Reports and deliverables**

For the activities of providing transnational access, the *access provider* shall, in addition to the provisions of Article II.7, submit to the *Commission* for approval:

- (a) an initial database report, to be updated annually, if necessary, suitable for publication in

an electronic database and in the yearbooks published by the *Commission*;

(b) a section in the periodic activity reports required by Article II.7, reporting on the access activity, that shall include the membership of the *user group* selection panel as well as the amount of access provided to the *user groups*, with the description of their work, and the names and home institutions of *users*.

### **E. Confidentiality**

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to confidentiality as referred to for the *access provider* in Article II.9.

In addition to the provisions of Article II.9, the *access provider* shall require the *users* to keep confidential any document, information, *knowledge*, *pre-existing know-how* or other documents communicated to them in relation to the *project*.

### **F. Publicity**

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to publicity as referred to for the *access provider* in Article II.12.

In particular, the *access provider* shall, throughout the duration of the *project*, take any appropriate measure to ensure that, in their publications, *users* make suitable publicity to the access provided to them under the *contract* by the European Community, in conformity with Article II.12.

In addition to the information referred to in paragraph 2 of Article II.12, the *Commission* shall be authorised to publish, in whatever form and on or by whatever medium, including the Internet, the list of the *users*.

### **G. Access rights**

In addition to the provisions of Article II.35, the *access provider* shall ensure that the *users* enjoy, on a royalty-free basis, *access rights* to the *pre-existing know-how* of the *access provider* and to the *knowledge*, if that *pre-existing know-how* or *knowledge* is needed to carry out their own work under the *project*.

### **H. Incompatible or restrictive commitments**

In addition to the provisions of Article II.36, the *access provider* required to grant *access rights* shall inform, as soon as possible, the *users* of any restriction which might substantially affect the granting of *access rights*, as the case may be.

### **I. Cost reporting models**

For the activities of providing transnational access, this section shall replace Article II.22 of Annex II.

1. There are two models for reporting costs under the *contract*:

- eligible direct costs, calculated as specified in paragraph 2 of this section, and a flat rate for indirect costs, are charged by an *access provider* using the user fee reporting model (UF). The flat rate is 20% of all direct costs minus costs of subcontracts, which is deemed to

cover any indirect costs incurred by the *access provider* under the *project*.

- eligible direct additional costs and a flat rate for indirect costs are charged by an *access provider* using the additional cost model (AC). The flat rate is 20% of all direct additional costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.

2. The *access provider* may identify its eligible direct costs, related to the access provided to the *users* given access to the *infrastructure*, on the basis of a user fee (UF), according to the following formula:

$$\text{user fee} = \text{unit cost} \times \text{actual quantity of access delivered within the project}$$

The unit cost, negotiated between the *Commission* and the *access provider*, shall be defined on the basis of the average annual direct costs of providing access to the *infrastructure*, divided by the total annual quantity of access provided to the researchers normally having access to the *infrastructure* (excluding the *user groups* supported for access by the *Community*). These direct costs may cover also preparatory work and specific training courses for the *users* but shall exclude all contributions to the capital investments of the *infrastructure*. This unit cost shall be specified in Annex I to the *contract* and is to be used throughout the duration of the *contract*.

Eligible direct costs may also include the travel and subsistence costs related to visits by *users* and to the *user group* selection panel, where necessary.

When the *infrastructure* is composed of several research facilities with different access costs, a separate unit cost may be defined for each facility.

3. *Access providers* which may use the additional cost reporting model (AC) are:

- non-commercial or non-profit organisations established either under public law or private law, or
  - international organisations,
- which do not have an accounting system that allows the share of their direct and indirect costs relating to the *project* to be distinguished.

4. All *access providers* may use the user fee cost reporting model (UF), provided they have an accounting system that allows their direct costs relating to the *project* to be identified.

5. Any *access providers* using for the other activities of the *project* one of the full cost reporting models established in Article II.22.1 (FC or FCF) must use the user fee cost reporting model (UF) for activities aimed at providing transnational access.

6. Where an *access provider* may choose between the UF or AC cost reporting model for activities aimed at providing transnational access, it shall apply that model for the same type of activities in all *contracts* established under the Sixth Framework Programme which include activities aimed at providing transnational access.

(as amended by the Commission Decision C (2003) 3834 of 23 October 2003)

**Form C - Model of Financial Statement per Activity for a Specific Support Action / Transnational Access to Infrastructures**

(to be completed by each contractor)

Type of instrument	Specific Support Action	Type of Action (if necessary)	Transnational Access to Infrastructures
Project Title (or Acronym)		Contract n°	
Contractor's Legal Name			
Legal Type			
Contact Person		Telephone	
Telecopy		E-mail	
Cost model used (AC/FC or FCF) / (UF : User Fee) (*)		Indirect costs (Real or Flat Rate of 20% of Direct costs, except subcontracting)	Flat Rate of 20% of Direct Costs, except subcontracting(**)
Period from		To	

(\*) If UF is used under "other specific activities: transnational access", please mention the two costs models used (eg: FC / UF or FCF / UF or AC/UF)

(\*\*) Except otherwise agreed in Article 9 [special clauses] of the contract.

**1- Resources (Third party(ies))**

Are there any resources made available on the basis of a prior agreement with third parties identified in Annex I of the contract? (Yes / No)				
If Yes, please provide the following information				
Third Party 1 (Y1)	Legal Name		Cost model used (*)	
Third Party 2 (Y2)	Legal Name		Cost model used (*)	
Third Party 3 (Y3)	Legal Name		Cost model used (*)	
Third Party 4 (Y4)	Legal Name		Cost model used (*)	

If necessary add another Form C.

**2- Declaration of eligible costs (in €)**

Please complete only the activity covered by the relevant instrument (and type of action) indicated above and as mentioned in Article II.25 and/or in Annex I of the contract.

If you are a contractor using the additional cost model (AC):

- indicate only your additional eligible costs, except for Management of the Consortium Activity for which you may indicate your full eligible costs;

- do not declare eligible direct additional costs specifically covered by contributions from third parties as mentioned in Articles II.20 and II.23 a and b of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate your full eligible costs.

The costs declared should distinguish between direct and indirect costs.

If necessary, adjustments to previous period(s) may be included where appropriate.

	Type of Activity													
	Research and Technological Development /		Demonstration (B)		Training (C)		Management of the Consortium (D)		Other Specific Activities: Transnational Access (E)		Other Specific Activities (F)		Total (F) = (A)+(B)+(C)+(D)+(E)	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Third Party(ies)	Contractor	Third Party(ies)	Contractor
Direct costs														
Of which subcontracting														
Indirect costs														

Adjustments to previous period(s)															
Total costs															

**3- Declaration of receipts (in €)**

If you are a contractor using the additional cost model (AC), indicate only receipts covered by Article II.23.c of the contract.

If you are a contractor using a full cost model (FC/FCF), indicate receipts covered by Article II.23 of the contract.

	Type of Activity													
	Research and Technological Development /		Demonstration (B')		Training (C')		Management of the Consortium (D')		Other Specific Activities: Transnational Access (E')		Other Specific Activities (F')		Total (F') = (A)+(B)+(C)+(D)+(E')	
	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)	Contractor	Third Party(ies)
Total receipts														

**4- Declaration of interest generated by the pre-financing (in €)**

To be completed only by the coordinator.

Did the pre-financing (advance) you received by the Commission for this period earn interest? (Yes / No)

If yes, please indicate the amount (in €)

**5- Request of FP6 Financial contribution (in €)**

For this period, the FP6 Community financial contribution requested is equal to (amount in €)

**6- Audit certificates**

According to the contract, does this Financial Statement need an audit certificate (or several in case of Third party(ies)) delivered by independent auditor(s)? (Yes / No)

If Yes, does this(those) audit certificate(s) cover only this Financial Statement per Activity? (Yes / No)

If No, what are the periods covered by this(those) audit certificate(s) ? From – To

What is the total cost of this(those) audit certificate(s) (in €) per independent auditor(s) ?

**Audit certificate of the contractor (X)**

Legal name of the audit firm		Cost of the certificate	
<b>Audit certificate(s) of the third party(ies) (Ys) (if necessary)</b>			
Y1 : Legal name of the audit firm		Cost of the certificate	
Y2 : Legal name of the audit firm		Cost of the certificate	
Y3 : Legal name of the audit firm		Cost of the certificate	
Y4 : Legal name of the audit firm		Cost of the certificate	
If necessary add another Form C.		Total (Z) = (X) + (Ys)	

Reminders:

The cost of an audit certificate is included in the costs declared under the activity "Management of the Consortium".

The required audit certificate(s) is(are) attached to this Financial Statement.

**7- Conversion rates**

Costs incurred in currencies other than EURO shall be reported in EURO.

Please mention the conversion rate used (only one choice is possible) – Please note that the same principle applies for receipts.

Contractor	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
Third Party(ies) (if necessary)	
Third Party 1 (Y1)	
- Conversion rate of the date of incurred actual costs? (YES / NO)	

- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 2 (Y2)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 3 (Y3)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	
<b>Third Party 4 (Y4)</b>	
- Conversion rate of the date of incurred actual costs? (YES / NO)	
- Conversion rate of the first day of the first month following the period covered by this Financial Statement? (YES/NO)	

*If necessary add another Form C.*

**8- Contractor's Certificate**

We certify that:

- the costs declared above are directly related to the resources used to reach the objectives of the project ;
- the receipts declared above are directly related to the resources used to reach the objectives of the project ;
- the costs declared above fall within the definition of eligible costs specified in Articles II.19, II.20, II.21, II.22 and II.25 of the contract, and, if relevant, in Annex III and Article 9 (special clauses) of the contract ;
- the receipts declared above fall within the definition of receipts specified in Article II.23 of the contract ;
- the interest generated by the pre-financing declared above falls within the definition of Article II.27 of the contract ;
- the necessary adjustments, especially to costs reported in previous Financial Statement(s) per Activity, have been incorporated in the above Statement ;
- the above information declared is complete and true ;
- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Contractor's Stamp	Name of the Person responsible for the work	Name of the duly authorised Financial Officer
	Date	Date
	Signature	Signature

**6.6- ANNEX 6 : THE 8<sup>TH</sup> COUNCIL DIRECTIVE 84/253/EEC OF 10 APRIL 1984**

**EIGHTH COUNCIL DIRECTIVE of 10 April 1984 based on Article 54 (3) (g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents (84/253/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (3) (g) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, under Directive 78/660/EEC (4), the annual accounts of certain types of company must be audited by one or more persons entitled to carry out such audits from which only the companies mentioned in Article 11 of that Directive may be exempted;

Whereas the aforementioned Directive has been supplemented by Directive 83/349/EEC (5) on consolidated accounts;

Whereas the qualifications of persons entitled to carry out the statutory audits of accounting documents should be harmonized ; whereas it should be ensured that such persons are independent and of good repute;

Whereas the high level of theoretical knowledge required for the statutory auditing of accounting documents and the ability to apply that knowledge in practice must be ensured by means of an examination of professional competence;

Whereas the Member States should be given the power to approve persons who, while not fulfilling all the conditions imposed concerning theoretical training, nevertheless have engaged in professional activities for a long time, affording them sufficient experience in the fields of finance, law and accountancy and have passed the examination of professional competence;

Whereas the Member States should also be authorized to adopt transitional provisions for the benefit of professional persons; (1) OJ No C 112, 13.5.1978, p. 6 ; OJ No C 317, 18.12.1975, p. 6. (2) OJ No C 140, 5.6.1979, p. 154. (3) OJ No C 171, 9.7.1979, p. 30. (4) OJ No L 222, 14.8.1978, p. 11. (5) OJ No L 193, 18.7.1983, p. 1.

Whereas the Member States will be able to approve both natural persons and firms of auditors which may be legal persons or other types of company, firms or partnership;

Whereas natural persons who carry out the statutory audits of accounting documents on behalf of such firms of auditors must fulfill the conditions of this Directive;

Whereas a Member State will be able to approve persons who have obtained qualifications outside that State which are equivalent to those required by this Directive;

Whereas a Member State which, when this Directive is adopted, recognizes categories of natural persons who fulfil the conditions imposed in this Directive, but whose level of examination of professional competence is below university, final examination level, should

be allowed to continue, under certain conditions and until subsequent coordination, to grant such persons special approval for the purpose of carrying out the statutory audits of the accounting documents of companies and bodies of undertakings, of limited size, when such Member State has not made use of the possibilities for exemption afforded by Community Directives in respect of the preparation of consolidated accounts;

Whereas this Directive does not cover either the right of establishment or the freedom to provide services with regard to persons responsible for carrying out the statutory audits of accounting documents;

Whereas recognition of the approval given to nationals of other Member States for the purpose of carrying out such audits will be specifically regulated by Directives on the taking up and pursuit of activities in the fields of finance, economics and accountancy, as well as on the freedom to provide services in those fields,

HAS ADOPTED THIS DIRECTIVE:

## SECTION I Scope

### Article 1

1. The coordination measures prescribed in this Directive shall apply to the laws, regulations and administrative provisions of the Member States concerning persons responsible for:

(a) carrying out statutory audits of the annual accounts of companies and firms and verifying that the annual reports are consistent with those annual accounts in so far as such audits and such verification are required by Community law;

(b) carrying out statutory audits of the consolidated accounts of bodies of undertakings and verifying that the consolidated annual reports are consistent with those consolidated accounts in so far as such audits and such verification are required by Community law.

2. The persons referred to in paragraph 1 may, depending on the legislation of each Member State, be natural or legal persons or other types of company, firm or partnership (firms of auditors as defined in this Directive).

## SECTION II Rules on approval

### Article 2

1. Statutory audits of the documents referred to in Article 1 (1) shall be carried out only by approved persons. The authorities of the Member States may approve only:

(a) natural persons who satisfy at least the conditions laid down in Articles 3 to 19;

(b) firms of auditors which satisfy at least the following conditions:

(i) the natural persons who carry out statutory audits of the documents referred to in Article 1 on behalf of firms of auditors must satisfy at least the conditions imposed in Articles 3 to 19 ; the Member States may provide that such natural persons must also be approved;

(ii) a majority of the voting rights must be held by natural persons or firms of auditors who satisfy at least the conditions imposed in Articles 3 to 19 with the exception of Article 11 (1) (b) ; the Member States may provide that such natural persons or firms of auditors must also

be approved. However, those Member States which do not impose such majority at the time of the adoption of this Directive need not impose it provided that all the shares in a firm of auditors are registered and can be transferred only with the agreement of the firm of auditors and/or, where the Member State so provides, with the approval of the competent authority;

(iii) a majority of the members of the administrative or management body of a firm of auditors must be natural persons or firms of auditors who satisfy at least the conditions imposed in Articles 3 to 19 ; the Member States may provide that such natural persons or firms of auditors must also be approved. Where such body has no more than two members, one of those members must satisfy at least those conditions.

Without prejudice to Article 14 (2), the approval of a firm of auditors must be withdrawn when any of the conditions imposed in (b) is no longer fulfilled. The Member States may, however, provide for a period of grace of not more than two years for the purpose of meeting the requirements imposed in (b) (ii) and (iii).

2. For the purposes of this Directive, the authorities of the Member States may be professional associations provided that they are authorized by national law to grant approval as defined in this Directive.

#### Article 3

The authorities of a Member State shall grant approval only to persons of good repute who are not carrying on any activity which is incompatible, under the law of that Member State, with the statutory auditing of the documents referred to in Article 1 (1).

#### Article 4

A natural person may be approved to carry out statutory audits of the documents referred to in Article 1 (1) only after having attained university entrance level, then completed a course of theoretical instruction, undergone practical training and passed an examination of professional competence of university, final examination level organized or recognized by the State.

#### Article 5

The examination of professional competence referred to in Article 4 must guarantee the necessary level of theoretical knowledge of subjects relevant to the statutory auditing of the documents referred to in Article 1 (1) and the ability to apply such knowledge in practice. Part at least of that examination must be written.

#### Article 6

The text of theoretical knowledge included in the examination must cover the following subjects in particular: (a) - auditing,

- analysis and critical assessment of annual accounts,
- general accounting,
- consolidated accounts,
- cost and management accounting,
- internal audit,
- standards relating to the preparation of annual and consolidated accounts and to methods of valuing balance sheet items and of computing profits and losses,

(b) ; the Member States may provide that such natural persons or firms of auditors must also  
- legal and professional standards relating to the statutory auditing of accounting documents  
and to those carrying out such audits;

(b) in so far as they are relevant to auditing: - company law,  
- the law of insolvency and similar procedures,  
- tax law,

- civil and commercial law,  
- social-security law and law of employment,  
- information and computer systems,  
- business, general and financial economics,  
- mathematics and statistics,  
- basic principles of the financial management of undertakings.

#### Article 7

1. By way of derogation from Articles 5 and 6, a Member State may provide that a person who has passed a university or equivalent examination or holds a university degree or equivalent qualification in one or more of the subjects referred to in Article 6 may be exempted from the test of theoretical knowledge in the subjects covered by that examination or degree.

2. By way of derogation from Article 5, a Member State may provide that a holder of a university degree or equivalent qualification in one or more of the subjects referred to in Article 6 may be exempted from the test of the ability to apply in practice his theoretical knowledge of such subjects when he has received practical training in them attested by an examination or diploma recognized by the State.

#### Article 8

1. In order to ensure the ability to apply theoretical knowledge in practice, a test of which is included in the examination, a trainee must complete a minimum of three years' practical training in inter alia the auditing of annual accounts, consolidated accounts or similar financial statements. At least two-thirds of such practical training must be completed under a person approved under the law of the Member State in accordance with this Directive; the Member State may, however, permit practical training to be carried out under a person approved by the law of another Member State in accordance with this Directive.

2. Member States shall ensure that all training is carried out under persons providing adequate guarantees regarding training.

#### Article 9

Member States may approve persons to carry out statutory audits of the documents referred to in Article 1 (1) even if they do not fulfil the conditions imposed in Article 4, if they can show either: (a) that they have, for 15 years, engaged in professional activities which have enabled them to acquire sufficient experience in the fields of finance, law and accountancy and have passed the examination of professional competence referred to in Article 4, or

(b) that they have, for seven years, engaged in professional activities in those fields and have, in addition, undergone the practical training referred to in Article 8 and passed the examination of professional competence referred to in Article 4.

#### Article 10

1. Member States may deduct periods of theoretical instruction in the fields referred to in Article 6 from the years of professional activity referred to in Article 9, provided that such instruction is attested by an examination recognized by the State. Such instruction must last not less than one year, nor may it reduce the period of professional activity by more than four years.

2. The period of professional activity as well as the practical training must not be shorter than the programme of theoretical instruction and the practical training required by Article 4.

#### Article 11

1. The authorities of a Member State may approve persons who have obtained all or part of their qualifications in another State provided they fulfil the following two conditions: (a) the competent authorities must consider their qualifications equivalent to those required under the law of that Member State in accordance with this Directive ; and (b) they must have furnished proof of the legal knowledge required in that Member State for purposes of the statutory auditing of the documents referred to in Article 1 (1). The authorities of that Member State need not, however, require such proof where they consider legal knowledge obtained in another State sufficient.

2. Article 3 shall apply.

#### Article 12

1. A Member State may consider to be approved, in accordance with this Directive, those professional persons who were approved by individual acts of that Member State's competent authorities before the application of the provisions referred to in Article 30 (2).

2. The admission of a natural person to a professional association recognized by the State where, according to the law of that State, such admission confers on the members of that association the right to carry out statutory audits of the documents referred to in Article 1 (1), may be considered as approval by individual act for the purposes of paragraph 1 of this Article.

#### Article 13

Until the application of the provisions referred to in Article 30 (2), a Member State may consider approved, in accordance with this Directive, those professional persons who have not been approved by individual acts of the competent authorities but who have nevertheless the same qualifications in that Member State as persons approved by individual acts who on the date of approval are carrying out statutory audits of the documents referred to in Article 1 (1) on behalf of such approved persons.

#### Article 14

1. A Member State may consider to be approved in accordance with this Directive those firms of auditors which have been approved by individual acts of that Member State's competent authorities before the application of the provisions referred to in Article 30 (2).
2. The conditions imposed in Article 2 (1) (b) (ii) and (iii) must be complied with no later than the end of a period which may not be fixed at more than five years from the date of application of the provisions referred to in Article 30 (2).
3. Those natural persons who, until the application of the provisions referred to in Article 30 (2), carried out statutory audits of the documents referred to in Article 1 (1) in the name of a firm of auditors may, after that date, be authorized to continue to do so even if they do not fulfil all the conditions imposed by this Directive.

#### Article 15

Until one year after the application of the provisions referred to in Article 30 (2), those professional persons who have not been approved by individual acts of the competent authorities but who are nevertheless qualified in a Member State to carry out statutory audits of the documents referred to in Article 1 (1) and have in fact carried on such activities until that date may be approved by that Member State in accordance with this Directive.

#### Article 16

For one year after the application of the provisions referred to in Article 30 (2), Member States may apply transitional measures in respect of professional persons who, after that date, maintain the right to audit the annual accounting documents of certain types of company or firm not subject to statutory audit but who will no longer be able to carry out such audits upon the introduction of new statutory audits unless special measures are enacted for their benefit.

#### Article 17

Article 3 shall apply to Articles 15 and 16.

#### Article 18

1. For six years after the application of the provisions referred to in Article 30 (2), Member States may apply transitional measures in respect of persons already undergoing professional or practical training when those provisions are applied who, on completion of their training, would not fulfil the conditions imposed by this Directive and would therefore be unable to carry out statutory audits of the documents referred to in Article 1 (1) for which they had been trained.
2. Article 3 shall apply.

#### Article 19

None of the professional persons referred to in Articles 15 and 16 or of those persons referred to in Article 18 may be approved by way of derogation from Article 4 unless the competent authorities consider that they are fit to carry out statutory audits of the documents referred to in Article 1 (1) and have qualifications equivalent to those of persons approved under Article 4.

## Article 20

A Member State which does not make use of the possibility provided for in Article 51 (2) of Directive 78/660/EEC and in which, at the time of the adoption of this Directive, several categories of natural persons may, under national legislation, carry out statutory audits of the documents referred to in Article 1 (1) (a) of this Directive, may, until subsequent coordination of the statutory auditing of accounting documents, specially approve, for the purpose of carrying out statutory audits of the documents referred to in Article 1 (1) (a) in the case of a company which does not exceed the limits of two of the three criteria established in Article 27 of Directive 78/660/EEC, natural persons acting in their own names who: (a) fulfil the conditions imposed in Articles 3 to 19 of this Directive save that the level of the examination of professional competence may be lower than that required in Article 4 of this Directive ; and (b) have already carried out the statutory audit of the company in question before it exceeded the limits of two of the three criteria established in Article 11 of Directive 78/660/EEC.

However, if a company forms part of a body of undertakings to be consolidated which exceeds the limits of two of the three criteria established in Article 27 of Directive 78/660/EEC, such persons may not carry out the statutory audit of the documents referred to in Article 1 (1) (a) of this Directive in the case of that company.

## Article 21

A Member State which does not make use of the possibility provided for in Article 6 (1) of Directive 83/349/EEC and in which, when this Directive is adopted, several categories of natural persons may, under national legislation, carry out statutory audits of the documents referred to in Article 1 (1) (b) of this Directive may, until subsequent coordination of the statutory auditing of accounting documents, specially approve, for the purpose of carrying out statutory audits of the documents referred to in Article 1 (1) (b), a person approved pursuant to Article 20 of this Directive if on the parent undertaking's balance sheet date, the body of undertakings to be consolidated does not, on the basis of those undertakings' latest annual accounts, exceed the limits of two of the three criteria established in Article 27 of Directive 78/660/EEC, provided that he is empowered to carry out the statutory audit, of the documents referred to in Article 1 (1) (a) of this Directive, of all the undertakings included in the consolidation.

## Article 22

A Member State which makes use of Article 20 may allow the practical training of the persons concerned as referred to in Article 8 to be completed under a person who has been approved under the law of that Member State to carry out the statutory audits referred to in Article 20.

## SECTION III Professional integrity and independence

### Article 23

Member States shall prescribe that persons approved for the statutory auditing of the documents referred to in Article 1 (1) shall carry out such audits with professional integrity.

Article 24

Member States shall prescribe that such persons shall not carry out statutory audits which they have required if such persons are not independent in accordance with the law of the Member State which requires the audit.

Article 25

Articles 23 and 24 shall also apply to natural persons who satisfy the conditions imposed in Articles 3 to 19 and carry out the statutory audit of the documents referred to in Article 1 (1) on behalf of a firm of auditors.

Article 26

Member States shall ensure that approved persons are liable to appropriate sanctions when they do not carry out audits in accordance with Articles 23, 24 and 25.

Article 27

Member States shall ensure at least that the members and shareholders of approved firms of auditors and the members of the administrative, management and supervisory bodies of such firms who do not personally satisfy the conditions laid down in Articles 3 to 19 in a particular Member State do not intervene in the execution of audits in any way which jeopardizes the independence of the natural persons auditing the documents referred to in Article 1 (1) on behalf of such firms of auditors.

SECTION IV Publicity

Article 28

1. Member States shall ensure that the names and addresses of all natural persons and firms of auditors approved by them to carry out statutory audits of the documents referred to in Article 1 (1) are made available to the public.

2. In addition, the following must be made available to the public in respect of each approved firm of auditors: (a) the names and addresses of the natural persons referred to in Article 2 (1) (b) (i) ; and (b) the names and addresses of the members or shareholders of the firm of auditors; (c) the names and addresses of the members of the administrative or management body of the firm of auditors.

3. Where a natural person is permitted to carry out statutory audits of the documents referred to in Article 1 (1) in the case of a company according to the conditions referred to in Articles 20, 21 and 22, paragraph 1 of this Article shall apply. The category of company or firm or the bodies of undertakings in respect of which such an audit is permitted must, however, be indicated.

## SECTION V Final provisions

### Article 29

The Contact Committee set up by Article 52 of Directive 78/660/EEC shall also: (a) facilitate, without prejudice to Articles 169 and 170 of the Treaty, harmonized application of this Directive through regular meetings dealing, in particular, with practical problems arising in connection with its application;

(b) advise the Commission, if necessary, on additions or amendments to this Directive.

### Article 30

1. Member States shall bring into force before 1 January 1988 the laws, regulations and administrative provisions necessary for them to comply with this Directive. They shall forthwith inform the Commission thereof.

2. Member States may provide that the provisions referred to in paragraph 1 shall not apply until 1 January 1990.

3. Member States shall ensure that they communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

4. Member States shall also ensure that they communicate, to the Commission, lists of the examinations organized or recognized pursuant to Article 4.

### Article 31

This Directive is addressed to the Member States.

Done at Brussels, 10 April 1984.

For the Council

The President

C. CHEYSSON

**6.7- ANNEX 7: PROPOSED MODEL FOR AN AUDIT CERTIFICATE****Proposed model for an audit certificate provided by an external auditor****Option 1: one contractor / no third party(ies) => one single audit certificate****Addressed to**

*[full name and the address of the contractor concerned<sup>315</sup>]*

We *[legal name of the audit firm]*, established in *[full address/city/state/province/country]* represented for signature of this audit certificate by *[name and function of an authorised representative]*, hereby certify that:

- we have conducted an audit relating to some information declared in your Financial Statement(s) per Activity attached to this audit certificate and presented to the Commission of the European Communities under contract *[EC contract reference: title, acronym, number]* for the following period(s) *[insert period(s) covered by the Financial Statement(s) per Activity]*.
- We confirm that our audit was carried out in accordance with generally accepted auditing standards respecting ethical rules and on the basis of the relevant provisions of the above-referenced contract and its annexes.

The above mentioned Financial Statement(s) per Activity was(were) examined and all tests of the supporting documentation and accounting records deemed necessary were carried out in order to obtain reasonable assurance<sup>316</sup> that, in our opinion, based on our audit:

- the amount of the total eligible costs (*[insert amount in number]* (*[insert amount in words<sup>317</sup>]*)) you declared in the Box 2 of the attached Financial Statement(s) per Activity is complying with the following cumulative conditions<sup>318</sup>:
  - ✓ they are actual<sup>319</sup> and answers to your economic environment<sup>320</sup>;
  - ✓ they are determined in accordance with your usual accounting principles<sup>321</sup>;
  - ✓ they have been incurred during the periods covered by the Financial Statement(s) per Activity concerned by this audit certificate<sup>322</sup>;

<sup>315</sup> See head of the core-contract (if the contractor is the coordinator) or the second paragraph of article 1 of the core-contract.

<sup>316</sup> Reasonable assurance is an accounting expression meaning a high degree of confidence that information is valid and unaltered.

<sup>317</sup> In EURO.

<sup>318</sup> In cases where a part of the amount of the total eligible costs are qualified, modify the sentence and mention only the amount of the total eligible costs that are unqualified. The purpose of the audit certificate is to certify unqualified eligible costs. The auditor should clearly identify any amounts for which he/she cannot give reasonable assurances that the cost meet the criteria

<sup>319</sup> Eligible costs are actual. They are not budgeted costs. Where actual costs are not available at the time of establishment of the audit certificate, the closest possible estimate can be declared as actual if this is in conformity with the accounting principles of the contractor. This must be mentioned in the financial statement. Any necessary adjustments to these claims must be reported in the Financial Statement for the subsequent reporting period. For the last reporting period, only actual costs can be declared.

<sup>320</sup> Article II.19.1.a)

<sup>321</sup> Article II.19.1.b)

<sup>322</sup> Article II.19.1.c)

[they also include the eligible costs incurred in drawing up the final reports referred to in Article II.7.4 of this contract, which may be incurred up to 45 calendar days after the end of the project;]<sup>323</sup>

- ✓ they are recorded in your accounts at the date of the establishment of this audit certificate<sup>324</sup>;
- ✓ they are exclusive of any non-eligible costs which are, as established in the second paragraph of article II.19 of your above mentioned contract with the Commission of the European Communities:
  - ❖ any identifiable indirect taxes, including VAT or duties;
  - ❖ interest owed;
  - ❖ provisions for possible future losses or charges;
  - ❖ exchange losses;
  - ❖ costs declared, incurred or reimbursed in respect of another Community project;
  - ❖ return on capital;
  - ❖ debt and debt service charges;
  - ❖ excessive or reckless expenditure;
  - ❖ any cost which does not meet the conditions established in Article II.19.1. of your contract with the Commission of the European Communities.
- ✓ they are represented according to the following cost reporting model [*insert the relevant cost reporting model*] you are eligible to use according to article II.22 of your above mentioned contract with the Commission of the European Communities;
 

[As such, they are also exclusive of any additional direct eligible costs covered by contributions from third parties defined in indents a) and b) of Article II.23 of your contract with the Commission of the European Communities]<sup>325</sup>.
- ✓ [they are represented according to the following cost reporting model [*insert the relevant cost reporting model*] you are eligible to use for your involvement in the specific activities aiming to provide transnational access according to article III.13 of the above mentioned contract with the Commission of the European Communities;]<sup>326</sup>

[As such, they are also exclusive of any additional direct eligible costs covered by contributions from third parties defined in indents a) and b) of Article II.23 of the contract with the Commission of the European Communities]<sup>327</sup>.
- ✓ [they are represented according to the following basis for the conversion rate used of EURO:

<sup>323</sup> If relevant, to be inserted only for the last audit certificate provided for this contract.

<sup>324</sup> Article II.19.1.d)

<sup>325</sup> To be added only for contractors using the additional cost reporting model (AC).

<sup>326</sup> To be added only for contractors involved in the specific activities aiming to provide transitional access in an Integrated Infrastructures Initiative contract or a Specific Support Action contract.

<sup>327</sup> To be added only for contractors using the additional cost reporting model (AC) involved in the specific activities aiming to provide transitional access in an Integrated Infrastructures Initiative contract or a Specific Support Action contract.

- ❖ the conversion rate of the date where the actual costs were incurred
- ❖ the rate applicable on the first day of the month following the end of reporting period]<sup>328</sup>
- as declared in the Box 3 of the attached Financial Statement(s) per Activity, the total amount of receipts<sup>329</sup> for the periods covered by this(those) Financial Statement(s) per Activity is equal to (*insert amount in number*) (*insert amount in words*<sup>330</sup>);
- [as declared in the Box 4 of the attached Financial Statement(s) per Activity, the total amount of interests yielded by the pre-financing<sup>331</sup> you received by the Commission of the European Communities for the periods covered by this(those) Financial Statement(s) per Activity is equal to (*insert amount in number*) (*insert amount in words*<sup>332</sup>)]<sup>333</sup>;
- accounting procedures used in the recording of your eligible costs and receipts respect the accounting rules of the State in which you are established as well as permit the direct reconciliation between the costs and receipts incurred for the implementation of the project covered by the EC contract above mentioned and the overall statement of accounts relating to your overall business activity<sup>334</sup>;
- our company is qualified to deliver this audit certificate in full compliance with the second and third paragraphs of article II.26 of the contract;  
[Relevant information establishing this qualification are attached to this audit certificate;]<sup>335</sup>
- as declared in the Box 6 of the attached Financial Statement(s) per Activity, you have paid for this audit certificate a price equal to (*insert amount in number*) (*insert amount in words*<sup>336</sup>) in which VAT is equal to (*insert amount in number*) (*insert amount in words*<sup>337</sup>).

Date, Signature and Stamp of the audit firm

<sup>328</sup> To be inserted only if some costs have not been incurred in EURO.

<sup>329</sup> As defined in article II.23 of the Annex II (General conditions) of the FP6 model contract (except for actions to promote human resources and mobility).

<sup>330</sup> In EURO.

<sup>331</sup> As defined in article II.27 of the Annex II (General conditions) of the FP6 model contract (except for actions to promote human resources and mobility).

<sup>332</sup> In EURO.

<sup>333</sup> To be inserted only for the coordinator.

<sup>334</sup> Article II.19.1.d)

<sup>335</sup> To be inserted only for the first audit certificate provided for this contract.

<sup>336</sup> In EURO.

<sup>337</sup> In EURO.

**Option 2: one contractor + third party(ies) => several audit certificates**

**Sub-option 2.1: the same external auditor (or public competent officer) certifies the information provided by the contractor and by the third party(ies)**

**Sub-option 2.2: each legal entity (contractor or third party(ies)) uses a specific external auditor (or public competent officer)**

In both cases, one audit certificate per legal entity (one for the contractor + one for each third party) must be provided.

The same above proposed model may be used for a third party with the following modifications (bold and underlined):

**Addressed to**

*[full name and the address of the third party concerned<sup>338</sup>]*

We *[legal name of the audit firm]*, established in *[full address/city/state/province/country]* represented for signature of this audit certificate by *[name and function of an authorised representative]*, hereby certify that:

- we have conducted an audit relating to some information declared in the Financial Statement(s) per Activity attached to this audit certificate and presented to the Commission of the European Communities under contract *[EC contract reference: title, acronym, number]* for the following period(s) *[insert period(s) covered by the Financial Statement(s) per Activity]* by the contractor *[full name and the address of the contractor concerned<sup>339</sup>]* to whom you have provided resources on the basis of a prior agreement as established in Annex I of this contract.
- we confirm that our audit was carried out in accordance with generally accepted auditing standards respecting ethical rules and on the basis of the relevant provisions of the above-referenced contract and its annexes.

The above mentioned Financial Statement(s) per Activity was(were) examined and all tests of the supporting documentation and accounting records deemed necessary were carried out in order to obtain reasonable assurance<sup>340</sup> that, in our opinion, based on our audit:

- the amount of total eligible costs (*[insert amount in number]*) (*[insert amount in words<sup>341</sup>]*) you declared in the Box 2 of the attached Financial Statement(s) per Activity is complying with the following cumulative conditions<sup>342</sup>:

<sup>338</sup> See Annex I of the contract and Box 1 of the Financial Statement(s) per Activity.

<sup>339</sup> See head of the core-contract (if the contractor is the coordinator) or the second paragraph of article 1 of the core-contract.

<sup>340</sup> Reasonable assurance is an accounting expression meaning a high degree of confidence that information is valid and unaltered.

<sup>341</sup> In EURO.

<sup>342</sup> In cases where a part of the amount of the total eligible costs are qualified, modify the sentence and mention only the amount of the total eligible costs that are unqualified. The purpose of the audit certificate is to certify unqualified eligible

- ✓ they are actual<sup>343</sup> and answers to your economic environment<sup>344</sup>;
- ✓ they are determined in accordance with your usual accounting principles<sup>345</sup>;
- ✓ they have been incurred during the periods covered by the Financial Statement(s) per Activity concerned by this audit certificate<sup>346</sup>;  
 [they also include the eligible costs incurred in drawing up the final reports referred to in Article II.7.4 of this contract, which may be incurred up to 45 calendar days after the end of the project;]<sup>347</sup>
- ✓ they are recorded in your accounts at the date of the establishment of this audit certificate<sup>348</sup>;
- ✓ they are exclusive of any non-eligible costs which are, as established in the second paragraph of article II.19 of the above mentioned contract with the Commission of the European Communities:
  - ❖ any identifiable indirect taxes, including VAT or duties;
  - ❖ interest owed;
  - ❖ provisions for possible future losses or charges;
  - ❖ exchange losses;
  - ❖ costs declared, incurred or reimbursed in respect of another Community project;
  - ❖ return on capital;
  - ❖ debt and debt service charges;
  - ❖ excessive or reckless expenditure;
  - ❖ any cost which does not meet the conditions established in Article II.19.1 of the above contract with the Commission of the European Communities.
- ✓ they are represented according to the following cost reporting model [*insert the relevant cost reporting model*] you are eligible to use according to article II.22 of the above mentioned contract with the Commission of the European Communities;  
 [As such, they are also exclusive of any additional direct eligible costs covered by contributions from third parties defined in indents a) and b) of Article II.23 of the contract with the Commission of the European Communities]<sup>349</sup>.
- ✓ [they are represented according to the following cost reporting model [*insert the relevant cost reporting model*] you are eligible to use for your involvement in the

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costs. The auditor should clearly identify any amounts for which he/she cannot give reasonable assurances that the cost meet the criteria.

<sup>343</sup> Eligible costs are actual. They are not budgeted costs. Where actual costs are not available at the time of establishment of the audit certificate, average employment rates can be declared as actual if they are in conformity with the accounting principles of the contractor. In this case, please mention it. Remember that any necessary adjustments to these average rates must be reported in the Financial Statement for the subsequent reporting period and that for the last reporting period, only actual costs can be declared.

<sup>344</sup> Article II.19.1.a)

<sup>345</sup> Article II.19.1.b)

<sup>346</sup> Article II.19.1.c)

<sup>347</sup> If relevant, to be inserted only for the last audit certificate provided for this contract.

<sup>348</sup> Article II.19.1.d)

<sup>349</sup> To be added only for resources of third parties using the additional cost reporting model (AC).

specific activities aiming to provide transnational access according to article III.13 of the above mentioned contract with the Commission of the European Communities;]<sup>350</sup>

[As such, they are also exclusive of any additional direct eligible costs covered by contributions from third parties defined in indents a) and b) of Article II.23 of the contract with the Commission of the European Communities]<sup>351</sup>.

- ✓ [they are represented according to the following basis for the conversion rate used of EURO:
  - ❖ the conversion rate of the date where the actual costs were incurred
  - ❖ the rate applicable on the first day of the month following the end of reporting period]<sup>352</sup>
- as declared in the Box 3 of the attached Financial Statement(s) per Activity, the total amount of receipts<sup>353</sup> for the periods covered by this(those) Financial Statement(s) per Activity is equal to (*insert amount in number*) (*insert amount in words*<sup>354</sup>);
- accounting procedures used in the recording of your eligible costs and receipts respect the accounting rules of the State in which you are established as well as permit the direct reconciliation between the costs and receipts incurred for the implementation of the project covered by the EC contract above mentioned and the overall statement of accounts relating to your overall business activity<sup>355</sup>;
- our company is qualified to deliver this audit certificate in full compliance with the second and third paragraphs of article II.26 of the contract;
 

[Relevant information establishing this qualification are attached to this audit certificate;]<sup>356</sup>
- as declared in the Box 6 of the attached Financial Statement(s) per Activity, you have paid for this audit certificate a price equal to (*insert amount in number*) (*insert amount in words*<sup>357</sup>) in which VAT is equal to (*insert amount in number*) (*insert amount in words*<sup>358</sup>).

<sup>350</sup> To be added only for resources of third parties involved in the specific activities aiming to provide transitional access in an Integrated Infrastructures Initiative contract or a Specific Support Action contract.

<sup>351</sup> To be added only for resources of third parties using the additional cost reporting model (AC) involved in the specific activities aiming to provide transitional access in an Integrated Infrastructures Initiative contract or a Specific Support Action contract.

<sup>352</sup> To be inserted only if some costs have not been incurred in EURO.

<sup>353</sup> As defined in article II.23 of the Annex II (General conditions) of the FP6 model contract (except for actions to promote human resources and mobility).

<sup>354</sup> In EURO.

<sup>355</sup> Article II.19.1.d)

<sup>356</sup> To be inserted only for the first audit certificate provided for this contract.

<sup>357</sup> In EURO.

<sup>358</sup> In EURO.

- A second original of this audit certificate is also sent to the attention of *[full name and the address of the contractor concerned]*

Date, Signature and Stamp of the audit firm

**6.8- ANNEX 8: GENERAL OVERVIEW OF REPORTS (EXCEPT AUDIT CERTIFICATES) TO BE PROVIDED PER TYPE OF INSTRUMENTS AND ACCORDING TO THE TYPE OF GRANT**

Types of instruments and/or actions / Types of reports		Periodic Reports					Final Reports				
		Activity report	Management report	Report of distribution of the grant	Any other report requested by any Annex	Updated implementation plan / JPA	Activity report	Management report	Payment requests	Any other report requested by any Annex	Report of distribution of the grant
Network of excellence		•	•	•	•	•	•	•		•	•
Integrated project		•	•	•	•	•	•	•		•	•
Specific targeted research or innovation project		•	•	•	•		•	•		•	•
Specific research project for SMEs	Cooperative research	•	•	•	•		•	•		•	•
	Collective research	•	•	•	•		•	•		•	•
Integrated infrastructures initiative		•	•	•	•		•	•		•	•
Coordination action	Classical	•	•	•	•		•	•		•	•
	For Infrastructures	•	•	•	•		•	•		•	•
Specific Support Action	Classical through Grant to the Budget	•	•	•	•		•	•		•	•
	Classical through Lump Sum			•			•		•	•	•
	For Infrastructures	•	•	•	•		•	•		•	•

**6.9- ANNEX 9: TABLE OF ADOPTED SPECIAL CLAUSES APPLICABLE TO THE FP6 MODEL CONTRACT AND TO MARIE CURIE MODEL CONTRACTS FOR THE IMPLEMENTATION OF THE SIXTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMUNITY (2002-2006)**

TABLE OF CONTENTS

TITLE OF THE SPECIAL CLAUSE	REFERENCE AND DATE OF ADOPTION
1) Participation by the <i>JRC</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
2) United Nations (only for use with specialised agencies and international organisations of the UN system having adhered to the UN-EC Financial and Administrative Framework Agreement of the 29.04.2003 (FAFA))	<i>Decision DL/2003/3004 dated 07.11.2003</i>
2bis) Only for Marie Curie contracts - United Nations (only for use with specialised agencies and international organisations of the UN system having adhered to the UN-EC Financial and Administrative Framework Agreement of the 29.04.2003 (FAFA))	<i>Decision DL/2003/3004 dated 07.11.2003</i>
2.A) International organisations (general rule)	<i>Decision DL/2003/3140 dated 20.11.2003</i>
2.A bis) Only for Marie Curie contracts - International organisations (general rule)	<i>Decision DL/2003/3140 dated 20.11.2003</i>
3) Complementary contracts	<i>Decision DL/2003/3004 dated 07.11.2003</i>
3bis) Clustering and concertation	<i>Decision DL/2003/3004 dated 07.11.2003</i>
4.A) Sole <i>contractor</i> clause for SSA that may become multi-contractors ( <i>or other similar cases</i> )	<i>Decision DL/2003/3004 dated 07.11.2003</i>
4.B) Sole <i>contractor</i> clause for SSA that <u>cannot</u> be multi-contractor	<i>Decision DL/2003/3004 dated 07.11.2003</i>
5) Mid-term review clauses	<i>Decision DL/2003/3004 dated 07.11.2003</i>
5bis) Only for Marie Curie Multi-contractor contracts - Mid-term review clauses	<i>Decision DL/2003/3004 dated 07.11.2003</i>
6) Modalities of payment of <i>pre-financing</i> subject to financial guarantees	<i>Decision DL/2003/3004 dated 07.11.2003</i>
6.D bis) Only for Marie Curie Mono-contractor contracts - Payment of the <i>pre-financing</i> subject to obtaining a financial guarantee from the contractor	<i>Decision DL/2003/3388 dated 10.12.2003</i>
7) Late payment of the <i>pre-financing</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>

<b>8) Exoneration of financial collective responsibility</b> <i>(where duly justified for specific support actions – already covered by Annex II Marie Curie actions and Annex III for SME specific actions)</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>9) Reimbursement of less than 100% for SSA or other instruments with other specific activities, except for NoE</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>10) Signature of a consortium agreement as prerequisite to beginning of project</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>11) Ineligibility of costs incurred in relation to an activity</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>12) Increase of the EC financial contribution</b> <i>(only for multi-annual SSA identified under Article 9.2.a of the Rules for participation)</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>13) Contractors with flat rate overheads of less than 20 %</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>14) Contractors with eligible costs but no EC contribution</b> <i>(e.g. usually from third countries)</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>14bis) Only for Marie Curie Actions contracts - Contractors with eligible costs but no EC contribution</b> <i>(e.g. usually from third countries)</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>15) Ethical rules</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>16) Clinical research</b> <i>(for biomedical research involving human beings):</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>17) Specific support actions involving Transnational Access</b>	<i>Decision DL/2003/3141 dated 20.11.2003</i>
<b>18) Cases where other enterprises and/or end-users participate</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>19) Delayed accession of contractors established in a new Member State to contracts entering into force between the 01.01.2004 and the 30.04.2004 due to Article 32 of the Accession Treaties</b>	<i>Decision DL/2003/3004 dated 07.11.2003</i>
<b>20) Sublicensing of software</b> <i>(not really necessary as provided for by Article 35.1.e- to be used only if it is to be imposed upon contractors)</i>	<i>Decision DL/2003/3004 dated 07.11.2003</i>

<p><b>20bis) Only for Marie Curie contracts - Sublicensing of software</b> (<i>not really necessary as provided for by Article 32.1.e- to be used only if it is to be imposed upon contractors</i>)</p>	<p><i>Decision DL/2003/3004 dated 07.11.2003</i></p>
<p><b>21) Identified bank account</b></p>	<p><i>Decision DL/2003/3004 dated 07.11.2003</i></p>
<p><b>21bis) Only for Marie Curie monocontractor - Identified bank account</b></p>	<p><i>Decision DL/2003/3004 dated 07.11.2003</i></p>
<p><b>22) Different cost reporting model within the same legal entity</b></p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>23) Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]</b></p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>23 bis) Only for Marie Curie contracts - Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]</b></p>	<p><i>Decision DL/2003/3388 dated 10.12.2003</i></p>
<p><b>24) Management of the consortium activity costs paid at 100% limited to a lower percentage than &lt;7% of the Community financial contribution</b></p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>24bis) Only for Marie Curie multicontractor contracts - Management of the consortium activity costs paid at 100% limited to a lower percentage than &lt;7% of the Community financial contribution</b> (<i>to be used only in those cases where the maximum percentage for management of the consortium activity is 7%</i>)</p>	<p><i>Decision DL/2003/3388 dated 10.12.2003</i></p>
<p><b>25) IRC (DG ENTR)</b></p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>26) Effects of a suspension of Marie Curie [individual fellowships IEF/IEF1and2/OIF] [chairs] [excellence grants][ International and European reintegration grants]</b> (Monocontractor) (<i>Only for Marie Curie actions</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>26bis) Effects of a change of status in Marie Curie [individual fellowship IEF/IEF1and2/OIF][International and European reintegration grants]</b> (Monocontractor) (<i>Only for Marie Curie actions</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>27) No distribution of pre-financing until start of the project</b> (<i>for Specific Actions for SME's and as necessary in other specific cases</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>28) Payments subject to the establishment of a "blocked" account or equivalent by the co-ordinator</b> (<i>for Specific Actions for SME's and as necessary in other specific cases</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>29) Trust account</b> (<i>Similar to special clause 21 already approved on 7/11 except for the mention of trust account</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>

<p><b>30) Performance guarantee</b> (<i>DG TREN - when a pre-financing guarantee is not required or after release of such guarantee during the project</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>31) Negotiation costs incurred during the duration of the project</b> (<i>only for projects that have a start date before or during the period in which the contract was being negotiated</i>)</p>	<p><i>Decision DL/2003/3188 dated 27.11.2003</i></p>
<p><b>31bis) Only for Marie Curie contracts - Negotiation costs incurred during the duration of the project</b> (<i>only for projects that have a start date before or during the period in which the contract was being negotiated</i>)</p>	<p><i>Decision DL/2003/3388 dated 10.12.2003</i></p>
<p><b>32) Audit certificates (Only for IP and NoE)</b> (<i>Article 7.2 of the contract requires <b>annual</b> audit certificates for IPs and NoEs</i>)</p>	<p><i>Decision DL/2003/3286 dated 01.12.2003</i></p>
<p><b>33) Special clause for Design Studies</b></p>	<p><i>Decision DL/2003/3388 dated 10.12.2003</i></p>
<p><b>34) Special clause for Construction of New Infrastructures</b></p>	<p><i>Decision DL/2003/3388 dated 10.12.2003</i></p>
<p><b>35) IST Prize contracts (specific to DG INFSO)</b></p>	<p><i>Decision DL/2004/0072 dated 14.01.2004</i></p>

**1) Participation by the JRC**

1. The *Community* shall carry out part of the *project* through its *Joint Research Centre (JRC)* subject to the following conditions:

(a) For the purposes of this *contract*, the *JRC* shall be considered as a *contractor*. It shall have the same rights and same obligations as the other *contractors* and shall be a member of the *consortium* identified in Article 1.2.

(b) An amount of [] Euro of the *pre-financing* referred to in Article 8.2.a shall be kept by the *Commission* for the *JRC*.

(c) In addition to the documents referred to in Article 7, the *consortium* shall indicate to the *Commission* the amount of each of the payments referred to in Article 8.2.b and 8.2.c to be transferred by the *Commission* to the *JRC*.

(d) This *contract* takes precedence over any *consortium agreement* signed by the *Commission*, represented by the *JRC*.

2. Relations within the *Commission* between DG [...] and the *JRC* shall be regulated by an administrative arrangement as set out in Annex [...] to the *contract*, without prejudice to the rights of the other *contractors*.

**2) United Nations (only for use with specialised agencies and international organisations of the UN system having adhered to the UN-EC Financial and Administrative Framework Agreement of the 29.04.2003 (FAFA))****1. Settlement of dispute**

Any dispute arising between the *Commission* and [name of the *contractor*] shall be settled in accordance with Article 14 of the Financial and Administrative Framework Agreement concluded by the *Community*, represented by the *Commission*, and the United Nations on 29.04.2003 (hereinafter referred to as the “*Agreement*”) [to which [name of the *contractor*] adhered on the [date]].

**2. Audit certificates, controls and audits**

With regard to [name of the *contractor*], the “*Agreement on the application of the verification clause to operations administered by the United Nations and financed or co-financed by the European Community*” annexed to the *Agreement* prevail on this *contract*, in particular its Articles II.26 and II.29.

**[3. Governing law**

The law of [country<sup>359</sup>] shall govern this *contract*.]

<sup>359</sup> The law governing the contract shall be either the law of the headquarters of the international organisation or, when there are more than one international organisation in the contract, the law agreed between them. Where the law is that of Belgium or Luxembourg, either agreed by the international organisations or imposed by the Commission as a defaulting rule should they not agree, paragraph 3 is not included.

**2bis) Only for Marie Curie contracts - United Nations (only for use with specialised agencies and international organisations of the UN system having adhered to the UN-EC Financial and Administrative Framework Agreement of the 29.04.2003 (FAFA))**

1. Settlement of dispute

Any dispute arising between the *Commission* and [name of the *contractor*] shall be settled in accordance with Article 14 of the Financial and Administrative Framework Agreement concluded by the Community, represented by the *Commission*, and the United Nations on 29.04.2003 (hereinafter referred to as the “Agreement”) [to which [name of the *contractor*] adhered on the [date]].

2. Audit certificates, controls and audits

With regard to [name of the *contractor*], the “*Agreement on the application of the verification clause to operations administered by the United Nations and financed or co-financed by the European Community*” annexed to the *Agreement* prevail on this *contract*, in particular its [for *Marie Curie monocontractor* Articles II.22 and II.25] [for *Marie Curie multicontractors* Articles II.23 and II.26]

[3. Governing law

The law of [country<sup>360</sup>] shall govern this *contract*.]

**2.A) International organisations (general rule)**

1. Arbitration

a. Any dispute between the *Commission* (“Party”) and (an) *international organisation(s)* (“Party”) acting as *contractor(s)* (collectively referred to in this Article of the *contract* as the “Parties”) relating to the *contract*, which cannot be settled amicably shall be referred to an arbitration committee in accordance with the procedure specified below.

b. When notifying the other Party of its intention to resort to arbitration, the notifying Party shall also inform the other Party of its appointed arbitrator. The second Party shall appoint its arbitrator within one month of that written notification.

The two arbitrators shall, by joint agreement and within three months of the appointment of the second Party’s arbitrator, appoint a third arbitrator who shall be the chairman of the arbitration committee, unless a sole arbitrator is agreed by both Parties.

c. Within one month of the appointment of the third arbitrator, the Parties shall agree on the terms of reference of the arbitration committee, including the procedure to be followed.

d. The arbitration proceedings shall take place in Brussels.

e. The arbitration committee shall apply the terms of the *contract*. The arbitration committee shall set out in the award the detailed grounds for its decision.

<sup>360</sup> The law governing the contract shall be either the law of the headquarters of the international organisation or, when there are more than one international organisation in the contract, the law agreed between them. Where the law is that of Belgium or Luxembourg, either agreed by the international organisations or imposed by the Commission as a defaulting rule should they not agree, paragraph 3 is not included.

f. The arbitral award shall be final and binding upon the Parties, who hereby expressly agree to renounce any form of appeal or revision.

g. The costs, including all reasonable fees expended by the Parties to any arbitration hereunder, shall be apportioned between the Parties by the arbitration committee.

## 2. Audit certificates

With reference to Article II.26, audit certificates to be provided by an *international organisation* shall be established by its regular internal or external auditor, in accordance with its internal financial regulations and procedures.

## 3. Controls and audits

The *Commission* shall address any requests for controls or audits pursuant to the provisions of Article II.29, to the Director General of the *international organisation*.

The Parties shall agree in good faith on the conditions and procedures of the control or audit, which shall take into account the intergovernmental status of the *international organisation* and its statutory rules and regulations.

Where the *international organisation* notifies its opposition to the *Commission's* services or its representative(s) carrying out a financial audit, the Parties shall agree within three months of the date of the notification, on the appointment of an independent auditor to perform the financial audit. In such cases, the costs of that audit shall be borne by the *international organisation* and shall not be considered as eligible costs under this *contract*.

Any control or audit shall be carried out on a confidential basis.

## [4. Governing law

The law of [country<sup>361</sup>] shall govern this *contract*.]

<sup>361</sup> The law governing the contract shall be either the law of the headquarters of the international organisation or, when there are more than one international organisation in the contract, the law agreed between them. Where the law is that of Belgium or Luxembourg, either agreed by the international organisations or imposed by the Commission as a defaulting rule should they not agree, paragraph 4 is not included.

**2.A bis) Only for Marie Curie contracts - International organisations (general rule)**

## 1. Arbitration

a. Any dispute between the *Commission* (“Party”) and (an) *international organisation(s)* (“Party”) acting as *contractor(s)* (collectively referred to in this Article of the *contract* as the “Parties”) relating to the *contract*, which cannot be settled amicably shall be referred to an arbitration committee in accordance with the procedure specified below.

b. When notifying the other Party of its intention to resort to arbitration, the notifying Party shall also inform the other Party of its appointed arbitrator. The second Party shall appoint its arbitrator within one month of that written notification.

The two arbitrators shall, by joint agreement and within three months of the appointment of the second Party’s arbitrator, appoint a third arbitrator who shall be the chairman of the arbitration committee, unless a sole arbitrator is agreed by both Parties.

c. Within one month of the appointment of the third arbitrator, the Parties shall agree on the terms of reference of the arbitration committee, including the procedure to be followed.

d. The arbitration proceedings shall take place in Brussels.

e. The arbitration committee shall apply the terms of the *contract*. The arbitration committee shall set out in the award the detailed grounds for its decision.

f. The arbitral award shall be final and binding upon the Parties, who hereby expressly agree to renounce any form of appeal or revision.

g. The costs, including all reasonable fees expended by the Parties to any arbitration hereunder, shall be apportioned between the Parties by the arbitration committee.

## 2. Audit certificates

With reference to [*for Marie Curie monocontractor* Article II.22] [*for Marie Curie multicontractors* Article II.23], audit certificates to be provided by an *international organisation* shall be established by its regular internal or external auditor, in accordance with its internal financial regulations and procedures.

## 3. Controls and audits

The *Commission* shall address any requests for controls or audits pursuant to the provisions of [*for Marie Curie monocontractor* Article II.25] [*for Marie Curie multicontractors* Article II.26], to the Director General of the *international organisation*.

The Parties shall agree in good faith on the conditions and procedures of the control or audit, which shall take into account the intergovernmental status of the *international organisation* and its statutory rules and regulations.

Where the *international organisation* notifies its opposition to the *Commission*’s services or its representative(s) carrying out a financial audit, the Parties shall agree within three

months of the date of the notification, on the appointment of an independent auditor to perform the financial audit. In such cases, the costs of that audit shall be borne by the *international organisation* and shall not be considered as eligible costs under this *contract*.

Any control or audit shall be carried out on a confidential basis.

[4. Governing law  
The law of [country<sup>362</sup>] shall govern this *contract*.]

### 3) Complementary contracts

1. In addition to the provisions of Article II.1, the following definitions shall apply to this *contract*:

(a) **Complementary contract(s)** means a contract(s) concluded with the *Community* in respect of work technically related to the *project*, including for the purposes of *use*, and recognised in writing by the *contractors* to each contract as being complementary.

(b) **Complementary contractor** means a contractor of the contract(s) recognised as *complementary contract(s)* to this *contract*.

2. The following contract[s] [are] [is] complementary to the present one: [number]

3. *Complementary contractors* enjoy the rights and bear the obligations of *contractors* with regard to Part C of Annex II.

*Complementary contractors* are not members of the *consortium* for the purpose of this *contract*.

4. The [*coordinator*] [*only for Marie-Curie mono-contractor - contractor*] shall provide copies of the reports referred to in Article II.7.2.a and II.7.4.a to the coordinator[s] of the *complementary contract[s]*. *Complementary contractors* shall treat this information in accordance with Article II. 9 and Part C of Annex II.

### 3bis) Clustering and concertation

In order to assure coherence of the work within the *specific programme* and its relevance in worldwide developments, the *contractors* will be required to participate in periodic cross-dissemination meetings together with other related projects. When applicable, the *contractors* of these projects shall collectively discuss common approaches to standardisation activities. The concertation activities related with the project clusters foresee up to four meetings per year with the presence of project representatives. Interest groups clusters will be flexible and will be organised by the Commission services if added-value is demonstrated and if they answer a particular need for action in relation to a clearly identified and targeted theme.

### 4.A) Sole contractor clause for SSA that may become multi-contractors (or other similar

<sup>362</sup> The law governing the contract shall be either the law of the headquarters of the international organisation or, when there are more than one international organisation in the contract, the law agreed between them. Where the law is that of Belgium or Luxembourg, either agreed by the international organisations or imposed by the Commission as a defaulting rule should they not agree, paragraph 4 is not included.

*cases*)

1. All references to the “*contractors*” or to the “*consortium*” or to the “*coordinator*” in this *contract* and in the Annexes thereto shall be interpreted as references to the “*contractor*”.
2. Where the *consortium* is enlarged in accordance with Article 3 of the *contract*, the paragraph above does not apply from the date the enlargement is accepted.

**4.B) Sole *contractor* clause for SSA that cannot be multi-contractor**

All references to the “*contractors*” or to the “*consortium*” or to the “*coordinator*” in this *contract* and in the Annexes thereto shall be interpreted as references to the “*contractor*”.

**5) Mid-term review clauses**

1. A mid-term review shall be held after [Pn].
  2. At least two months before the end of [Pn], the *Commission* shall communicate to the *consortium* in accordance with Article 11 the modalities of the mid-term review, including, where appropriate, any meeting it may propose to convene and that it may request the *consortium* to organise. [Each *contractor* is requested by the *Commission* to attend such meeting in accordance with Article II.3.2.g.]
- Costs incurred by the *consortium* in relation to the mid-term review shall be eligible under the activity referred to in Article II.2.4.

[3. Together with the documents referred to in Article II.7.2 related to [Pn], the *consortium* shall submit [a “mid-term report” covering all the work carried out since the start of the *project*, objectives, intermediary results and conclusions, an updated *plan for using and disseminating the knowledge, and*<sup>363</sup>], an update of the remaining work planned in Annex I. These documents shall be evaluated in accordance with Article II.8.1, 2, 4 and 5.]

[4. The mid-term review shall be made against the satisfactory completion of the following deliverables before month X:  
[*List deliverables for the mid-term review*]<sup>364</sup>.]

**5bis) Only for Marie Curie Multi-contractor contracts - Mid-term review clauses**

1. A mid-term review shall be held after [Pn].
  2. At least two months before the end of [Pn], the *Commission* shall communicate to the *consortium* in accordance with Article 11 the modalities of the mid-term review, including, where appropriate, any meeting it may propose to convene and that it may request the *consortium* to organise. [Each *contractor* is requested by the *Commission* to attend such meeting in accordance with Article II.3.2.g.]
- Costs incurred by the *consortium* in relation to the mid-term review shall be eligible under the management of the *consortium* activities of the *project* referred to Article II.2.

<sup>363</sup> If more than one reporting period covered by the mid-term review. Otherwise, periodic reports are the mid-term report + updated work plan.

<sup>364</sup> If different from the milestones established in Annex I.

[3. Together with the documents referred to in Article II.7.2 related to [Pn], the *consortium* shall submit [a “mid-term report” covering all the work carried out since the start of the *project*, objectives, intermediary results and conclusions, *and*<sup>365</sup>], an update of the remaining work planned in Annex I. These documents shall be evaluated in accordance with Article II.8.1, 2, 4 and 5.]

[4. The mid-term review shall be made against the satisfactory completion of the following deliverables before month X:

[*List deliverables for the mid-term review*]<sup>366</sup>.]

## 6) Modalities of payment of *pre-financing* subject to financial guarantees

### 6.A) Payment of the *consortium's pre-financing* subject to obtaining from a contractor a financial guarantee, for instruments with collective responsibility that is insufficient to cover the EC financial contribution

The *coordinator* shall not distribute to the *contractor* [name] any *pre-financing* until a financial guarantee of a value of [amount] is provided to the *Commission* by the *consortium* or the *contractor*.

### 6.B) Payment of the *consortium's pre-financing* subject to obtaining a financial guarantee (*usually for instruments without collective responsibility but also can be used for the coordinator in instruments with collective responsibility where the protection of the Community financial interests are not sufficiently covered*)

[A share of [x%] of] [An amount of € x of] the *pre-financing* referred to in Article 8.2.a shall be retained by the *Commission* until *contractor* [name] provides to the *Commission* a financial guarantee equivalent to that [share][amount].

### 6.C) The *contractor* agrees that in lieu of a financial guarantee no *pre-financing* shall be provided

The *coordinator* shall not distribute to the *contractor* [name] any *pre-financing*. Only settled payments based on approved technical reports and financial statements accompanied by audit certificates shall be made to this *contractor*.

### 6.Cbis) Only for Marie Curie Mono-contractor - The *contractor* agrees that in lieu of a financial guarantee no *pre-financing* shall be provided

The *Commission* shall not transfer to the *contractor* any *pre-financing*. Only settled payments based on approved technical reports and financial statements accompanied by audit certificates shall be made to the *contractor*.

### 6.D) Payment of the *consortium's pre-financing* subject to obtaining a financial guarantee from the co-ordinator (for instruments with collective responsibility) (*Payment of the consortium's pre-financing subject to obtaining a financial guarantee from the co-ordinator for instruments without collective responsibility is covered by special clause 6B. This special clause is also to be used for coordinators in projects with collective responsibility where the coverage is not sufficient to protect the Community financial interests*).

<sup>365</sup> If more than one reporting period covered by the mid-term review. Otherwise, periodic reports are the mid-term report + updated work plan.

<sup>366</sup> If different from the milestones established in Annex I.

Notwithstanding the provisions of Article 8, the *pre-financing* for this *project* shall not be paid by the *Commission* until a financial guarantee of a value of [amount] is provided by the *co-ordinator* to the *Commission*. The guarantee may be lifted once all the other *contractors* have acceded to the *contract*.

**6.D bis) Only for Marie Curie Mono-contractor contracts - Payment of the *pre-financing* subject to obtaining a financial guarantee from the contractor**

Notwithstanding the provisions of Article 6, the *pre-financing* for this *project* shall not be paid by the *Commission* until a financial guarantee of a value of [amount] is provided by the *contractor* to the *Commission*.

**7) Late payment of the *pre-financing***

Notwithstanding the provisions of Article 8.2.a, the *pre-financing* shall be paid not earlier than 45 days before the *start date* of the *project*.

**8) Exoneration of financial collective responsibility (where duly justified for specific support actions – already covered by Annex II Marie Curie actions and Annex III for SME specific actions)**

The provisions of Article II.18 do not apply to this *contract*.

**9) Reimbursement of less than 100% for SSA or other instruments with other specific activities, except for NoE**

1. For contractors using the FC and FCF cost models, costs for “other specific activities” shall be reimbursed at a rate of [x < 100%]

[2. However, costs incurred [during month [] and month []] by the following *contractors* for “other specific activities” shall be reimbursed at a rate of [x’> or < x and <100%]:

[*contractor name*]]

[3. The indirect costs incurred by contractors using the FC model shall not be limited to the rate referred to in Article II.25. Such contractors shall indicate their real eligible indirect costs incurred in carrying out the contract.].

**10) Signature of a *consortium agreement* as prerequisite to beginning of *project***

1. The signature of the *consortium agreement* is mandatory before the start of the *project*.

2. The date of the signature of the *consortium agreement* by all *contractors* shall be communicated to the *Commission*. The *start date* of the *project* shall be the first day of the month following the last date of signature of the *consortium agreement* by all the *contractors*.

**11) Ineligibility of costs incurred in relation to an activity**

Any costs incurred for [*identify*] activity(ies) are not eligible for reimbursement under the project.

**12) Increase of the EC financial contribution (only for multi-annual SSA identified under Article 9.2.a of the Rules for participation)**

At the end of each reporting period except the last, and in addition to the reports referred to in Article 7.1 and 7.2, the *contractor* shall submit to the *Commission* an update of Annex I, including a detailed work plan and a revised budget for the following period and the first 6 months of the next one where applicable.

When approving reports for a particular period, the *Commission* may amend the contract to increase its financial contribution based on the above-mentioned revised budget, and within the limits of the amount established in the work programme of the specific programme.

**13) Contractors with flat rate overheads of less than 20 %**

Notwithstanding the provisions of Articles II.22 and II.25, the percentage of overheads for *contractor* [name] is fixed at [x<20%] of the total eligible direct cost.

**14) Contractors with eligible costs but no EC contribution (e.g. usually from third countries)**

1. Costs incurred by the following *contractor*(s) shall not be taken into consideration for determining the *Community* financial contribution:

[name of contractor]

2. *Contractor*(s) mentioned in the previous paragraph [is] [are] not subject to financial audits and audits on accounting and management principles referred to in Article II.29.1.

3. Article II.18, Section 1 of Part B of Annex II and any provision of Section 2 deriving from Section 1 do not apply to that/those contractor(s).

**14bis) Only for Marie Curie Actions contracts - Contractors with eligible costs but no EC contribution (e.g. usually from third countries)**

1. Costs incurred by the [following] *contractor*(s) shall not be taken into consideration for determining the *Community* financial contribution:

[name of contractor]

2. *Contractor*(s) mentioned in the previous paragraph [is] [are] not subject to financial audits and audits on accounting and management principles referred to in [for Marie Curie multi-contractor Article II.26.1][ for Marie Curie mono-contractor Article II.25.1].

3. Section 1 of Part B of Annex II and any provision of Section 2 deriving from Section 1 do not apply to that/those contractor(s).

**15) Ethical rules**

1. The *contractors* shall comply with the ethical framework of FP6, all applicable legislation, any relevant future legislation and the following specific programmes for research, technological development and demonstration: Integrating and strengthening the European Research Area (2002-2006) and Structuring the European Research Area (2002-2006)<sup>367</sup>.
2. The *contractors* undertake not to carry out research under this *project* involving any of the following activities:
  - (a) research activities aiming at human cloning for reproductive purposes,
  - (b) research activities intended to modify the genetic heritage of human beings which could make such change heritable and
  - (c) research activities intended to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.

**16) Clinical research (for biomedical research involving human beings):**

1. The *contractor(s)* shall provide the *Commission* with a statement confirming that it has received (a) favourable opinion(s) of the relevant ethics committee(s) and, if applicable, the regulatory approval of the competent national authority(ies) in the country concerned before beginning any biomedical research involving human beings.

[2. (for biomedical research involving human beings including clinical or other trials) The *Commission* shall never be considered as a sponsor for clinical trials in the sense of Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use.

Annex I shall indicate the name(s) of any such sponsor(s).

For trials not covered by Directive 2001/20/EC, Annex I shall indicate the name of the person or organisation that is responsible for the initiation, co-ordination and monitoring of the trial]

**17) Specific support actions involving Transnational Access**

**A. Definitions**

In addition to the provisions of Article II.1, the following definitions shall apply to this *contract*:

**a. Access provider:** means the *contractor* that is in charge of providing access to the *infrastructure*, as specified in Annex I.

**b. Infrastructure:** means the research facility (facilities) to which *user groups* are given transnational access under the *project*, as specified in Annex I.

<sup>367</sup> Council Decision 2002/834/EC on the specific programme for research, technological development and demonstration: Integrating and strengthening the European Research Area (2002-2006) and Council Decision 2002/835/EC on the specific programme for research, technological development and demonstration: Structuring the European Research Area (2002-2006).

**c. *International European Interest Organisations*:** means an *international organisation*, the majority of whose members are European Community Member States or *Associated States*, and whose principal objective is to promote scientific and technological co-operation in Europe.

**d. *User*:** means a researcher within a *user group*, including the *user group* leader.

**e. *User group*:** means a research team of one or more researchers given access to the *infrastructure* under the *project*. Each *user group* is led by a *user group* leader.

## **B. Performance obligations**

For activities aimed at providing transnational access, the *access provider* shall, in addition to the provisions of Annex I and Article II.3:

- (a) publicise widely, including on a dedicated Web page on the Internet, the access offered under this *contract* so that researchers throughout the Member States and the *Associated States* who might wish to have access to the *infrastructure* may be made aware of the possibilities open to them;
- (b) select the *user groups* in accordance with part C of this Article;
- (c) provide access free of charge to selected *user groups*, including all the infrastructural, logistical, technological and scientific support (including training courses for *users*) that is normally provided to external researchers given access to the *infrastructure*;
- (d) ensure that *users* comply with the terms and conditions of this contract;
- (e) maintain, on a regular basis and in accordance with its own usual accounting principles, appropriate documentation to support and justify the amount of access reported; this documentation shall include records of the names, nationalities, and home institutions of *users* within the *user groups*, as well as the nature and quantity of access provided to them.

## **C: Eligibility and selection of the *user groups***

**1.** To be eligible to benefit from access to the *infrastructure* under the *contract*, a *user group* must satisfy the following two conditions:

- both the *user group* leader and the majority of the *users* must come from Member States or *Associated States*;
- both the *user group* leader and the majority of the *users* must come from a country other than the country(ies) where the legal entity(ies) operating the *infrastructure* is(are) established.

The second condition shall not apply when the *access provider* is an *international European interest organisation* or the *JRC*.

When the *infrastructure* is composed of several research facilities operated by different legal entities, the second condition shall apply to each facility.

**2.** Only *user groups* that are entitled to disseminate the *knowledge* they have generated under the *project* are eligible to benefit from access to the *infrastructure* under the *contract*. The sole exception to this rule shall be *user groups* from an *SME* that wish to use the *infrastructure* for the first time.

**3.** Prospective *user groups* requesting access shall be required by the *access provider* to

submit in writing a description of the work that they wish to carry out and the names, nationalities and home institutions of the researchers expected to take part.

4. The *access provider* shall set up a *user group* selection panel, which will assist the *access provider* in the selection of the *user groups*, according to the conditions set out in this Article. The *user group* selection panel shall assess all proposals received and recommend a short-list of the *user groups* that should benefit under the *contract*. In so doing, it will apply the principles of transparency, fairness and impartiality.

5. The *user group* selection panel shall be composed of international experts in the field, at least half of whom shall be independent and external to the staff of the *infrastructure*, unless otherwise specified in Annex I.

6. The *user group* selection panel shall base its selection on scientific merit, taking into account that priority should be given to *user groups* who:

- have not previously used the *infrastructure*, and
- are working in countries where no such research *infrastructures* exist.

The *Commission* may, within the overall scope and financial limits of the *contract*, request the *access provider* to follow additional priorities in the selection of *user groups* in the *interest of the Community*. The *access provider* shall not unreasonably withhold its agreement to such requests.

7. Before selecting *user groups* requiring access exceeding 3 months, the *access provider* shall seek prior written approval of the *Commission*, unless such longer access is foreseen in Annex I.

#### **D. Reports and deliverables**

For the activities of providing transnational access, the *access provider* shall, in addition to the provisions of Article II.7, submit to the *Commission* for approval:

- (a) an initial database report, to be updated annually, if necessary, suitable for publication in an electronic database and in the yearbooks published by the *Commission*;
- (b) a section in the periodic activity reports required by Article II.7, reporting on the access activity, that shall include the membership of the *user group* selection panel as well as the amount of access provided to the *user groups*, with the description of their work, and the names and home institutions of *users*.

#### **E. Confidentiality**

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to confidentiality as referred to for the *access provider* in Article II.9.

In addition to the provisions of Article II.9, the *access provider* shall require the *users* to keep confidential any document, information, *knowledge*, *pre-existing know-how* or other documents communicated to them in relation to the *project*.

#### **F. Publicity**

The *access provider* shall ensure that the *users* have the same rights and obligations in

regard to publicity as referred to for the *access provider* in Article II.12.

In particular, the *access provider* shall, throughout the duration of the *project*, take any appropriate measure to ensure that, in their publications, *users* make suitable publicity to the access provided to them under the *contract* by the European Community, in conformity with Article II.12.

In addition to the information referred to in paragraph 2 of Article II.12, the *Commission* shall be authorised to publish, in whatever form and on or by whatever medium, including the Internet, the list of the *users*.

### **G. Access rights**

In addition to the provisions of Article II.35, the *access provider* shall ensure that the *users* enjoy, on a royalty-free basis, *access rights* to the *pre-existing know-how* of the *access provider* and to the *knowledge*, if that *pre-existing know-how* or *knowledge* is needed to carry out their own work under the *project*.

### **H. Incompatible or restrictive commitments**

In addition to the provisions of Article II.36, the *access provider* required to grant *access rights* shall inform, as soon as possible, the *users* of any restriction which might substantially affect the granting of *access rights*, as the case may be.

### **I. Cost reporting models**

For the activities of providing transnational access, this section shall replace Article II.22 of Annex II.

1. There are two models for reporting costs under the *contract*:

- eligible direct costs, calculated as specified in paragraph 2 of this section, and a flat rate for indirect costs, are charged by an *access provider* using the user fee reporting model (UF). The flat rate is 20% of all direct costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.
- eligible direct additional costs and a flat rate for indirect costs are charged by an *access provider* using the additional cost model (AC). The flat rate is 20% of all direct additional costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.

2. The *access provider* may identify its eligible direct costs, related to the access provided to the *users* given access to the *infrastructure*, on the basis of a user fee (UF), according to the following formula:

**user fee = unit cost x actual quantity of access delivered within the *project***

The unit cost, negotiated between the *Commission* and the *access provider*, shall be defined on the basis of the average annual direct costs of providing access to the *infrastructure*, divided by the total annual quantity of access provided to the researchers normally having access to the *infrastructure* (excluding the *user groups* supported for access by the *Community*). These direct costs may cover also preparatory work and specific training courses for the *users* but shall exclude all contributions to the capital investments of the

*infrastructure*. This unit cost shall be specified in Annex I to the *contract* and is to be used throughout the duration of the *contract*.

Eligible direct costs may also include the travel and subsistence costs related to visits by *users* and to the *user group* selection panel, where necessary.

When the *infrastructure* is composed of several research facilities with different access costs, a separate unit cost may be defined for each facility.

**3. Access providers** which may use the additional cost reporting model (AC) are:

- non-commercial or non-profit organisations established either under public law or private law, or
  - international organisations,
- which do not have an accounting system that allows the share of their direct and indirect costs relating to the *project* to be distinguished.

**4.** All *access providers* may use the user fee cost reporting model (UF), provided they have an accounting system that allows their direct costs relating to the *project* to be identified.

**5.** Any *access providers* using for the other activities of the *project* one of the full cost reporting models established in Article II.22.1 (FC or FCF) must use the user fee cost reporting model (UF) for activities aimed at providing transnational access.

**6.** Where an *access provider* may choose between the UF or AC cost reporting model for activities aimed at providing transnational access, it shall apply that model for the same type of activities in all *contracts* established under the Sixth Framework Programme which include activities aimed at providing transnational access.

### **18) Cases where other enterprises and/or end-users participate**

1. In addition to the obligations identified in Article II.3.1 and Article III.2.1, the *consortium* shall ensure that the *Community* financial contribution to the costs of the *other enterprises* and *end-users* shall be used in priority to provide the *RTD Performers* 100 % of their eligible costs incurred for research and technological development or innovation activities during the *project*, unless the *other enterprises* and *end-users* can demonstrate that the *Community* financial contribution to their costs is essential to their participation in the *project*. If this contribution is not sufficient to cover the eligible costs of those *RTD Performers*, the *Community* financial contribution to the costs of the *SME contractors* should be used in second priority.

2. The *project* shall not start until the *Commission* has received a duly signed copy of the *consortium agreement* that respects this provision. The start date of the *project* will be communicated to the *contractors* by the *Commission*.

### **19) Delayed accession of contractors established in a new Member State to contracts entering into force between the 01.01.2004 and the 30.04.2004 due to Article 32 of the Accession Treaties**

A) *Delayed entry into force of the accession of one or more contractors established in a new Member State to a multi-contractor contract signed by the coordinator and the Commission between the 01.01.2004 and the 30.04.2004 (for contracts covered by 2004 budget appropriations - contracts signed in 2004 on 2003 appropriations are not concerned)*

“The accession of the following *contractor(s)* to the *contract* shall become effective on 01.05.2004.

[*name*]

Nonetheless, if the *start date* of the *project* is prior to 01.05.2004, any costs incurred by that *contractor* are eligible from the *start date* of the *project*.”

[B] *Replacement of the initial coordinator of a multi-contractor contract by a contractor established in a new Member State who could not sign and act as coordinator between the 01.01.2004 and the 30.04.2004 due to delayed accession to the contract (for contracts covered by 2004 budget appropriations - contracts signed in 2004 on 2003 appropriations are not concerned - clause 19A has to be used in addition to this clause)*

“As of 01.05.2004, [*name of the contractor*] shall assume the rights and obligations of *coordinator* under this *contract* and [*name of the initial coordinator*] shall cease to be *coordinator*.

The information in Article 11.3 regarding the bank account to which payments shall be made is replaced by [*account of new coordinator*] and the name and address of the contact person and mailbox for the *coordinator* in Article 11.1 and 11.2 is replaced by ... ”]

[C] *Delayed entry into force of a single contractor contract with a contractor established in a new Member State. To be included if the contract had to be signed before 01.05.2004 at the request of that contractor or in order to avoid granting financial support to extinguished actions (see article 112.1 of the Financial Regulation) (for contracts covered by 2004 budget appropriations - contracts signed in 2004 on 2003 appropriations are not concerned - clause 19A has to be used in addition to this clause).*

“Without prejudice to the eligibility of the costs incurred from the *start date* of the *project*, this *contract* shall enter into force on 01.05.2004”.]

**20) Sublicensing of software** (*not really necessary as provided for by Article 35.1.e- to be used only if it is to be imposed upon contractors*)

The *access rights* granted under Article II.35 to this contract in respect of *knowledge* in the form of software shall include the right for the beneficiary to grant the sublicenses required due to amalgamation and incorporation of the software with the beneficiary’s own *knowledge* for its products or processes.

**20bis) Only for Marie Curie contracts - Sublicensing of software** (*not really necessary as provided for by Article 32.1.e- to be used only if it is to be imposed upon contractors*)

The *access rights* granted under [Article II.32 for Marie Curie multicontractors] [Article II.31 for Marie Curie monocontractor] to this contract in respect of *knowledge* in the form of software shall include the right for the beneficiary to grant the sublicenses required due to amalgamation and incorporation of the software with the beneficiary’s own *knowledge* for its products or processes.

**21) Identified bank account**

The bank account to which all payments of the *Community* financial contribution shall be made, as identified in Article 11.3 of this *contract*, shall be opened specifically and exclusively for the *project*.

**21bis) Only for Marie Curie monocontractor - Identified bank account**

The bank account to which all payments of the *Community* financial contribution shall be made, as identified in Article 9.3 of this *contract*, shall be opened specifically and exclusively for the *project*.

**22) Different cost reporting model within the same legal entity**

Notwithstanding the provisions of Article II.22.4, [*name of the department/institute*] which is an integral part of *contractor* [*name of legal entity*] may use the FC cost model for identifying its eligible costs in FP6 contracts, despite the fact that the *contractor* uses the AC cost model in FP6 contracts.

**23) Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]**

1. [**Option A : For Joint research units** ] The *contractor* [*name of the contractor*] represents also the following members of [*name of the JRU*] (referred to in this special clause as “*member(s)*”)

--[*name of the legal entity*].

---[*name of the legal entity*].]

[**Option B: For legal entity composed of legal entities, i.e EEIG, Enterprise groupings..** ] The *contractor* [*name of the contractor*] represents also its *members* (referred to in this special clause as “*members*”)

2. The *contractor* may charge costs incurred by the *members* in carrying out the project, in accordance with the provisions of the *contract*. These costs shall not be considered as receipts of the *project*.

The *members* shall identify the costs to the *project* in accordance with the provisions of part B of the *contract*. Each *member* shall apply a cost reporting model in accordance with the principles established in articles II.19, II.20 and II.21. The *contractor* shall provide to the *Commission*:

- an individual financial statement from each *member* in the format specified in Form C. These costs shall not be included in the *contractor's* Form C
- an audit certificate from each *member* in accordance with the relevant provisions of this *contract*
- a summary financial report consolidating the sum of the eligible costs borne by each *member* and the *contractor*, as stated in their individual financial statements, shall be appended to the *contractor's* Form C.

When submitting reports referred to in Article II.7, the *consortium* shall identify work performed and resources deployed by each *member*.

3. The eligibility of the *member's* costs charged by the *contractor* is subject to controls and audits of the *members*, in accordance with Article II.29.

4. The *contractor* shall retain sole responsibility toward the *Community* and the other *contractors* for its *members*. The *contractor* shall ensure that the *members* abide by the provisions of the *contract*.

**23 bis) Only for Marie Curie contracts - Entities composed of one or more legal entities [EEIGs/ Joint research units (Unités mixtes de recherche etc.) / Enterprise groupings]**

1. **[Option A: For Joint research units]** The *contractor* [*name of the contractor*] represents also the following members of [*name of the JRU*] (referred to in this special clause as “*member(s)*”)

--[*name of the legal entity*].

---[*name of the legal entity*].]

**[Option B: For legal entity composed of legal entities, i.e EEIG, Enterprise groupings...]**

The *contractor* [*name of the contractor*] represents also its *members* (referred to in this special clause as “*members*”)

2. The *contractor* may charge costs incurred by the *members* in carrying out the project, in accordance with the provisions of the *contract*. These costs shall not be considered as *receipts* of the *project*.

The *members* shall identify the costs to the *project* in accordance with the provisions of part B of Annex II and of Annex III of the *contract*. The *contractor* shall provide to the *Commission*:

- an individual financial statement from each *member* in the format specified in Form C. These costs shall not be included in the *contractor*'s Form C
- an audit certificate from each *member* in accordance with the relevant provisions of this *contract*
- a summary financial report consolidating the sum of the eligible costs borne by each *member* and the *contractor*, as stated in their individual financial statements, shall be appended to the *contractor*'s Form C.

When submitting reports referred to in Article II.7, the [*for Marie Curie monocontractor - contractor*] [*for Marie Curie multicontractor – consortium*] shall identify work performed and resources deployed by each *member*.

3. The eligibility of the *member*'s costs charged by the *contractor* is subject to controls and audits of the *members*, in accordance with [*for Marie Curie monocontractor- Article II.25*] [*for Marie Curie multicontractor- Article II.26*].

4. The *contractor* shall retain sole responsibility toward the *Community* and the other *contractors* for its *members*. The *contractor* shall ensure that the *members* abide by the provisions of the *contract*.

**24) Management of the consortium activity costs paid at 100% limited to a lower percentage than <7% of the Community financial contribution**

Notwithstanding the last paragraph of Article II.25, the costs relating to management of the *consortium* activities identified in Article II.2 may be only be charged up to a maximum of [*X %-lower percentage than <7%*] of the *Community* financial contribution.

**24bis) Only for Marie Curie multicontractor contracts - Management of the consortium activity costs paid at 100% limited to a lower percentage than <7% of the Community financial contribution (to be used only in those cases where the maximum percentage for management of the consortium activity is 7%)**

Notwithstanding the provisions of Part B of Annex III. regarding the maximum share of the Community contribution for management of the *consortium* activities, the costs relating to management of the *consortium* activities identified in Article II.2 may only be charged up to a maximum of [*X %-lower percentage than <7%*] of the *Community* financial contribution.

**25) IRC (DG ENTR)**

1. [Any costs incurred for [*identify*] activity(ies) are not eligible for reimbursement under the *project*.]

2. [Notwithstanding Article II.2.4, Management activity costs shall only include:
- the eligible costs of obtaining audit certificate(s) by each *contractor* ;
  - [the eligible costs of obtaining any financial security such as bank guarantees when requested by the *Commission*];
  - the eligible costs of producing the reports referred to in Articles II.7.2 and II.7.4
  - maintenance of the *consortium agreement*

Only the *coordinator* may include in its management activity costs:

- the eligible costs of compiling and delivering the reports referred to in Articles II.7.2 and II.7.4 to the *Commission* for the whole *consortium*
- eligible costs related to formal contacts and correspondence with the *Commission*]

**26) Effects of a suspension of Marie Curie [individual fellowships IEF/IEF1and2/OIF] [chairs] [excellence grants][ International and European reintegration grants] (Monocontractor) (Only for Marie Curie actions)**

In the event of suspension of the [*research training activities*][*chair holder*][*Team leader*][*researcher activities*] agreed by the *Commission* during the implementation of the *project*, the reporting period as laid down in Article 4 in which the suspension starts, shall be automatically extended for the length of the duration of the suspension. As a consequence, the start of the subsequent period(s) shall be deferred and the *project* duration laid down in Article 2.2 shall be automatically extended accordingly. [*For Marie Curie International and European reintegration grants only*: The period defined in Article III. 2 b) (full-time equivalent) shall also be adapted, if necessary, to respect the obligation of effective reintegration.]

**26bis) Effects of a change of status in Marie Curie [individual fellowship IEF/IEF1and2/OIF][International and European reintegration grants] (Monocontractor) (Only for Marie Curie actions)**

In the event of a change of status concerning the time dedicated to the *project* by the *researcher* (from/to a full-time position to/from a part-time position or change in the percentage of part-time) agreed by the *Commission* during the implementation of the *project*, the reporting period as laid down in Article 4 in which the change of status starts and the subsequent period(s) in which it takes place, shall be automatically extended (or reduced) in proportion. The update of the length of the reporting period(s) concerned shall take as a

reference a standard reporting period of 12 months corresponding to a full-time appointment. As a consequence, the start of the period(s) concerned shall be deferred (or anticipated) and the *project* duration laid down in Article 2.2 shall be automatically extended (or reduced) accordingly. [*For Marie Curie International and European reintegration grants only: The period defined in Article III. 2 b) (full-time equivalent) shall also be adapted, if necessary, to respect the obligation of effective reintegration.*]

**27) No distribution of pre-financing until start of the project** (*for Specific Actions for SME's and as necessary in other specific cases*)

The *coordinator* shall not distribute the *pre-financing* until the *start date* of the *project*.

**28) Payments subject to the establishment of a "blocked" account or equivalent by the co-ordinator** (*for Specific Actions for SME's and as necessary in other specific cases*)

Payments referred to in Article 8.2.a shall be paid by the *Commission* only after the *coordinator* provides the *Commission* with their bank's prior written confirmation of the establishment of a dedicated bank account denominated in Euros with the following attributes:

- a) the account is established for the purpose of receiving monies from the *Commission* specifically for the purposes of carrying out this contract, and
- b) on the basis of a prior irrevocable authority provided by the *coordinator* (as account holder) to its bank with a list of dedicated beneficiaries and schedule of transfers approved by the *Commission*.

The *coordinator* undertakes to immediately transfer the appropriate funds to the participants of the *consortium* identified in the list of beneficiaries, in the amounts established in the schedule.

**29) Trust account** (*Similar to special clause 21 already approved on 7/11 except for the mention of trust account*)

The bank account identified in Article 11.3 of this contract to which all payments of the *Community* financial contribution shall be made shall be opened as a trust account to be used exclusively for the purpose of the project.

**30) Performance guarantee** (*DG TREN - when a pre-financing guarantee is not required or after release of such guarantee during the project*)

A performance guarantee, equivalent to an amount of 10% of the amount of the maximum *Community* financial contribution stipulated in Article 5 i.e. Euros [...], is taken in the form of withholding. This withholding is performed

[*Option 1 (When a pre-financing guarantee is required for projects with more than one reporting period with an audit certificate for each period – see option B1 in Article 8.2)*

on the payment of the *pre-financing* corresponding to the second reporting period

[*Option 2 (When a pre-financing guarantee is required for projects with more than one reporting period but without an audit certificate for each period – see option B2 in Article 8.2)*

on the payment of the *pre-financing* corresponding to the reporting period following the reporting period for which the first audit certificate is provided.

[*Option 3 (When a pre-financing guarantee is not required)*

on the payment of the initial *pre-financing*

The performance guarantee is released with the final payment.

The amount of such withholding remains to the *Commission* in the event of partial or total non-implementation of the *project* referred to in Article 1.1, except in cases of *force majeure* or in exceptional cases duly justified and accepted by the *Commission*. This provision is without prejudice to the application of Article II.30 of Annex II to the contract.

**31) Negotiation costs incurred during the duration of the *project* (only for projects that have a start date before or during the period in which the contract was being negotiated)**

Notwithstanding the provisions of Article II.19.1.c, costs related to the negotiation of the *contract*, incurred during the duration of the *project* are not eligible costs of the *project*.

**31bis) Only for Marie Curie contracts - Negotiation costs incurred during the duration of the *project* (only for projects that have a start date before or during the period in which the contract was being negotiated)**

Notwithstanding the provisions of [*for Marie Curie monocontractor*: Article II.17.1.c] [*for Marie Curie multicontractor*: Article II.18.1.c], costs related to the negotiation of the *contract*, incurred during the duration of the *project* are not eligible costs of the *project*.

**32) Audit certificates (Only for IP and NoE) (Article 7.2 of the contract requires *annual* audit certificates for IPs and NoEs)**

Notwithstanding the provisions of Article 7.2 of this *contract*, audit certificates shall be submitted by all *contractors*, at the latest 45 days after the end of the following periods:

P(x) covering reporting periods from P1 to P(x)

P(y) covering reporting periods from P(x + 1) to P(y)

P(z) covering reporting periods from P(y + 1) to P(z)

P(last) covering reporting periods from P(z + 1) to the last reporting period of the *project*

**33) Special clause for Design Studies**

[1.] The reimbursement of costs for other specific support activities incurred by contractors shall not exceed 50% of the total eligible costs for those contractors applying the FC and FCF cost reporting models and 100% for those applying the AC cost reporting model.

[optional 2. Subject to the limit established above, the Community financial contribution may not exceed the total eligible costs incurred by contractors established in a Member and Associated States [and contractor [name of contractor] ].]

**34) Special clause for Construction of New Infrastructures**

[1.] The reimbursement of costs for other specific support activities, incurred by contractors applying the FC, FCF or AC cost reporting models, shall not exceed 10% of the total eligible costs.

[optional 2. Subject to the limit established above, the Community financial contribution may not exceed the total eligible costs incurred by contractors established in a Member and Associated States [and contractor [name of contractor] ].]

**35) IST Prize contracts (specific to DG INFSO)**

Further to the terms of Article 5, the *Community* financial contribution shall take the form of:

1 (i). An amount of € \_\_\_\_ [*insert amount in words XXXX EURO*] which corresponds to the actual costs incurred in organising and promoting the EISTP scheme. This amount covers all costs other than those referred to in paragraph 1(ii).

(ii). An amount of € \_\_\_\_ [*insert amount in words XXXX EURO*] which corresponds to the monetary prizes to be awarded in 2004 to the EISTP winners and Grand Prize winners established in the European Union or in *Associated States* (as defined in Annex I).

2. Article 8.2 and Article 11.3 shall apply only to the *Community's* financial contribution to costs referred to under paragraph 1(i) above.

3. The *Community* contribution corresponding to monetary prizes referred to under paragraph 1(ii) shall be paid by means of [ ] instalment[s], [each of these] not exceeding € \_\_\_\_ [*insert amount in words XXXX EURO*]. The *contractor* shall submit a payment request no later than two months before the Awards Ceremonies foreseen in Annex I. The *Commission* shall make the appropriate payments within a maximum of 45 days from the date of reception of the payment request.

4. The *contractor* shall open a bank account, for payments received under paragraph 1(ii) of this Article for the benefit of EISTP and Grand Prize winners (the "EISTP Prize Money Account"). This bank account shall be different from that established in Article 11.3, which shall be used for payments in relation to the paragraph 1(i) above. All information concerning the "EISTP Prize Money Account" shall be communicated by the *contractor* to the *Commission* within 30 days of its opening.

5. The *contractor* shall acknowledge the support given by the *Commission* in all documents disseminated or published concerning the EISTP.

