

## **FP7 GRANT AGREEMENT**

### **ANNEX VII- FORM E- TERMS OF REFERENCE FOR THE CERTIFICATE ON THE METHODOLOGY**

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**The Terms Reference should be completed by the Beneficiary and be agreed with the Auditor**

**The Independent Report of factual findings on Methodology should be provided by the Auditor**

## Terms of Reference for an Independent Report of factual findings on the Methodology concerning a Grant Agreement financed under the Seventh Research Framework Programme (FP7)

The following are the terms of reference ('ToR') on which <name of the Beneficiary> 'the Beneficiary' agrees to engage < name of the audit firm> 'the Auditor' to provide an Independent Report of Factual Findings in connection with European Community/European Atomic Energy Community financed grant agreements concerning the Seventh Research Framework Programmes (FP7), < title and number of the grant agreements> (the 'Grant Agreements'), concerning the Beneficiary's methodology for calculating average personnel costs and overhead costs. Where in these ToR the 'European Commission' is mentioned, this refers to its quality as signatory of the Grant Agreements with the Beneficiary. The European Community is not a party to this engagement.

### 1.1 Responsibilities of the Parties to the Engagement

'The Beneficiary' refers to the legal entity that is receiving the grant funding and that has signed the Grant Agreements with the European Commission.

- The Beneficiary is responsible for providing a Financial Statement<sup>1</sup> for the Action financed by the Grant Agreements and for ensuring that this Financial Statement can be properly reconciled to the Beneficiary's accounting and bookkeeping system and to the underlying accounts and records. Notwithstanding the procedures to be carried out, the Beneficiary remains at all times responsible and liable for the accuracy of the Financial Statement.
- The Beneficiary accepts that the ability of the Auditor to perform the procedures required by this engagement effectively depends upon the Beneficiary, providing full and free access to the Beneficiary's staff and its accounting and other relevant records.

'The Auditor' refers to the Auditor who is responsible for performing the agreed-upon procedures as specified in these ToR, and for submitting an independent report of factual findings to the Beneficiary.

The Auditor must be independent from the Beneficiary

- [Option 1: delete if not applicable] The Auditor is qualified to carry out statutory audits of accounting documents in accordance with the Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC or similar national regulations.
- [Option 2: delete if not applicable] The Auditor is a Competent Public Officer for which the relevant national authorities have established the legal capacity to audit the Beneficiary and is not involved in the preparation of the financial statements.
- The procedures to be performed are specified by the European Commission and the Auditor is not responsible for the suitability and appropriateness of these procedures.

### 1.2 Subject of the Engagement

The subject of this engagement is the methodology applied by *the Beneficiary* for claiming personnel costs and overhead rates.

### 1.3 Reason for the Engagement

The Beneficiary submits to the European Commission a certificate on the methodology in the form of a Report of factual findings on Methodology produced by an external auditor in accordance to Article II.4 of the Grant Agreements. The Authorising Officer of the Commission requires this report as he

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<sup>1</sup> Financial Statement in this context refers solely to Form C - Annex VI by which the Beneficiary claims costs under the Grant Agreement.

makes the payments of costs requested by the Beneficiary conditional on the factual findings of this report.

#### **1.4 Engagement Type and Objective**

This constitutes an engagement to perform specific agreed-upon procedures regarding an Independent Report of Factual Findings on Methodology concerning the Grant Agreements. The objective of this report is for the Auditor to carry out procedures to confirm that the methodology as presented is in fact in place and used by the Beneficiary to claim costs in its Financial Statements for the actions financed by the Grant Agreements. The procedures to be carried out will enable the Commission to conclude on the existence of the Beneficiary's methodology and its suitability to ensure that costs claimed will be in compliance with the terms of the Grant Agreements.

As this engagement is not an assurance engagement the Auditor does not provide an audit opinion and expresses no assurance. The European Commission derives its assurance by drawing its own conclusions from the factual findings reported by the Auditor on methodology of the Beneficiary relating thereto.

The Auditor shall include in its report that no conflict of interest exists between it and the Beneficiary in establishing this report, as well as the fee paid to the Auditor for providing the report.

#### **1.5 Scope of Work**

1.5.1 The Auditor shall undertake this engagement in accordance with these ToR and:

- in accordance with the International Standard on Related Services ('ISRS') 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as promulgated by the IFAC;
- in compliance with the *Code of Ethics for Professional Accountants* issued by the IFAC. Although ISRS 4400 provides that independence is not a requirement for agreed-upon procedures engagements, the European Commission requires that the Auditor also complies with the independence requirements of the *Code of Ethics for Professional Accountants*.

1.5.2 Planning, procedures, documentation and evidence

The Auditor should plan the work so that effective analysis of the methodology can be performed. For this purpose he performs the procedures specified in 1.9 of these ToR ('Scope of Work – Compulsory Report Format and Procedures to be Performed') and he uses the evidence obtained from these procedures as the basis for the report of factual findings.

#### **1.6 Reporting**

The Report of factual findings on Methodology should describe the purpose and the agreed-upon procedures of the engagement in sufficient detail in order to enable the Beneficiary and the European Commission to understand the nature and extent of the procedures performed by the Auditor. Use of the reporting format attached as Annex VII of the General Conditions is compulsory. The report should be written in the language indicated in Article 4 of the Grant Agreement. In accordance with Article II.22 of the Grant Agreement, the European Commission and the Court of Auditors have the right to audit any work carried out under the project for which costs are claimed from the Community, including the work related to this engagement.

#### **1.7 Timing**

The report should be provided by [DATE]

#### **1.8 Other Terms**

[The Beneficiary and the Auditor can use this section to agree other specific terms such as Auditor's fees, out of pocket expenses, etc.]

**1.9 Scope of Work – Compulsory Report Format and Procedures to be Performed****Independent Report of factual findings on Methodology concerning a Grant Agreement financed under the Seventh Research Framework Programme (FP7)***To be printed on letterhead paper of the Auditor*

&lt;Name of contact person(s)&gt;, &lt; Position&gt;

< **Beneficiary's name** >

&lt;Address&gt;

&lt;dd Month yyyy&gt;

Dear &lt;Name of contact person(s)&gt;

In accordance with our contract dated <dd Month yyyy> with <name of the Beneficiary> “the Beneficiary” and the terms of reference attached thereto (appended to this report), we provide our Independent Report of Factual Findings (“the Report”), with respect to the methodology used to calculate personnel costs and overhead rates. You requested certain procedures to be carried out in connection with the grant concerning [*title and number of the agreement*], the ‘Grant Agreement’. The Report consists of this letter and the Report. This Report is valid for other participations of the Beneficiary where the same methodology is used.

**Objective**

Our engagement was an engagement to perform agreed-upon procedures regarding the methodology used to calculate personnel costs and overhead rates in the context of the grant agreements signed between you and the European Commission under the Seventh Research Framework Programmes (FP7). It involved performing certain specified procedures in order to confirm the factual basis of the responses and descriptions provided by the Beneficiary, the results of which the European Commission uses to draw conclusions from the procedures performed by us.

The objective of this Report is for the Auditor to present the methodology to be used by the Beneficiary to claim costs in its Financial Statements for the actions financed by the Grant Agreements.

**Scope of Work**

Our engagement was undertaken in accordance with:

- the terms of reference appended to this Report and:
- International Standard on Related Services (‘ISRS’) 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as promulgated by the International Federation of Accountants (‘IFAC’);
- the *Code of Ethics for Professional Accountants* issued by the IFAC. Although ISRS 4400 provides that independence is not a requirement for agreed-upon procedures engagements, the European Commission requires that the Auditor also complies with the independence requirements of the *Code of Ethics for Professional Accountants*;

As requested, we have only performed the procedures set out in the terms of reference for this engagement and we have reported our factual findings on those procedures in the table appended to this Report.

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The scope of these agreed upon procedures has been determined solely by the European Commission and the procedures were performed solely to assist the European Commission in evaluating whether the system for preparing cost claims by the Beneficiary is in accordance with the requirements of the EC financed Grant Agreement. The Auditor is not responsible for the suitability and appropriateness of these procedures.

Because the procedures performed by us did not constitute either an audit or a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not express any assurance on any Financial Statements claimed using this methodology.

Had we performed additional procedures or had we performed an audit or review of the financial statements of the Beneficiary in accordance with International Standards on Auditing, other matters might have come to our attention that would have been reported to you.

### Sources of Information

The Report sets out information provided to us by the management of the Beneficiary in response to specific questions or as obtained and extracted from the Beneficiary's information and accounting systems.

### Factual Findings

The Auditor's factual findings based on the procedures carried out are presented in the table appended to this report.

### Exceptions

In some cases, the Auditor was not able to successfully complete the procedures specified. These exceptions are as follows:

**[exceptions such as inability to reconcile key information, unavailability of data which prevented the Auditor from carrying out the procedures, etc. should be listed here.]**

### Use of this Report

This Report is solely for the purpose set forth in the above objective.

This report is prepared solely for the confidential use of the Beneficiary and the European Commission and solely for the purpose of submission to the European Commission in connection with the requirements as set out in Article II.4.4 of the Grant Agreement. This report may not be relied upon by the Beneficiary or by the European Commission for any other purpose, nor may it be distributed to any other parties. The European Commission may only disclose this Report to others who have regulatory rights of access to it in particular the European Anti Fraud Office and the European Court of Auditors.

This Report relates only to the methodology specified above and does not extend to any financial statements of the Beneficiary.

No conflict of interest exists between the Auditor and the Beneficiary in establishing this report. The fee paid to the Auditor for providing the report was €\_\_\_\_\_.

We look forward to discussing our Report with you and would be pleased to provide any further information or assistance which may be required.

Yours sincerely

<dd Month yyyy>,<Name of the Auditor>

**Statements to be made by the Beneficiary and corresponding procedures carried out by the Auditor.**

The Auditor designs and carries out his work in accordance with the objective and scope of this engagement and the procedures to be performed as specified below. When performing these procedures the Auditor may apply techniques such as inquiry and analysis, (re)computation, comparison, other clerical accuracy checks, observation, inspection of records and documents, inspection of assets and obtaining confirmations or any others deemed necessary in carrying out these procedures.

The European Commission reserves the right to issue guidance together with example definitions and findings to guide the Auditor in the nature and presentation of the facts to be ascertained. The European Commission reserves the right to vary the procedures by written notification to the Beneficiary. The procedures to be performed are listed as follows:

<b>Statements to be made by the Beneficiary and corresponding procedures to be carried out by the Auditor.</b> <i>For a methodology to be considered compatible with the requirements of the Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's system. Where a positive answer cannot be provided, this should be highlighted in the main summary of the report.</i>	
<b>Statement to be made by Beneficiary</b>	<b>Procedure to be carried out by the Auditor</b>
The methodology describe below has been in use since [date]. The next planned alteration to the methodology used by the Beneficiary is [date]	The Auditor has inspected records and documents which support the date given by the Beneficiary.
<b>Personnel</b>	
Time recording exists, with authorisation, which enables all personnel hours to be allocated to project work, management and administrative time, holidays, etc. The time recording enables the time of researchers working on multiple projects to be allocated to those projects, and includes a check to prevent double charging of time. <b>'Productive hours'</b> represent the (average) number of hours made available by the employee in a year after the deduction of holiday, sick leave and other entitlements. This calculation should be provided by the Beneficiary.	For 10 employees selected at random, the Auditor checked: That the employee had recorded management and administrative tasks separately from project time; That an authorisation check exists which checks, inter alia, double-charging of time; For the most recent full calendar year: The average productive hours for the 10 employees was _____. The average productive hours per researcher for the organisation as a whole, as recorded by the Beneficiary's time records was _____.
Personnel costs of the researchers only include standard salaries, employer's costs, etc. and no special conditions exist for researchers on EC projects, unless they are explicitly foreseen in the Grant Agreement.	The Auditor reconciled the personnel costs used in the average personnel cost calculation to the payroll system and accounting records. The costs consisted of standard salaries and statutory employers' costs, and did not include bonuses.
Hourly rates are correctly calculated using one of the following possibilities [choose one]: <ul style="list-style-type: none"> <li>• Actual personnel costs <i>per person</i> divided by actual productive hours <i>per person</i>;</li> <li>• Actual personnel costs <i>per person</i> divided by <i>average/ standard</i> productive hours;</li> <li>• <i>Average</i> personnel costs <i>per person</i> divided by <i>average/ standard</i> productive</li> </ul>	The Auditor reviewed the calculation and confirmed that hourly rates are calculated as specified by the Beneficiary.  Where average costs are charged the Auditor successfully reconciled the following information with the accounting system of the Beneficiary:

<b>Statements to be made by the Beneficiary and corresponding procedures to be carried out by the Auditor.</b> <i>For a methodology to be considered compatible with the requirements of the Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's system. Where a positive answer cannot be provided, this should be highlighted in the main summary of the report.</i>	
<p>hours.</p> <p>For the average costing approach, the Beneficiary should state:</p> <ul style="list-style-type: none"> <li>— How researchers are grouped into categories (how many categories, under what criteria);</li> <li>— The pay range in each category from lowest to highest, average and median;</li> <li>— The upper and lower percentage variation within each category from the average;</li> <li>— The upper and lower percentage variation for productive hours from the average (if known);</li> <li>— A list of average rates charged in each category for the prior years (an indication only, of the expected range of rates for the period of the agreement).</li> </ul>	<ul style="list-style-type: none"> <li>• The number of categories;</li> <li>• The pay range, median and average of each category;</li> <li>• The upper and lower percentage variation from the average (denominator is the average);</li> <li>• The upper and lower percentage variation for productive hours from the average (if known);</li> <li>• A list of average rates charged in each category for the prior years (an indication only, of the expected range of rates for the period of the agreement).</li> </ul> <p>The Auditor multiplied the average rate for each category by the total productive hours for each category and reconciled the result to the accounting records.</p> <p>This result ('chargeable' personnel costs) in no case exceeded the actual costs as recorded in the accounting records.</p>
<p><b>Overheads</b></p> <p>The Beneficiary confirms the following:</p> <p>Overheads only include those costs which cannot be allocated to specific projects and support the functioning of the organisation as a whole.</p> <p>The overheads do not include costs which relate exclusively to non-research parts of the organisation.</p> <p>If the organisation carries out activities other than research (e.g., manufacturing, education), these overheads are transparently separated via cost accounting and do not form part of the claim.</p>	<p>The Auditor obtained the calculation of hourly overhead rates, including a detailed breakdown of the <b>overheads to be allocated</b> to research activity;</p> <p>This breakdown did not contain costs relating to direct project activity, such as the cost of research personnel, project consumables and expenses;</p> <p>This breakdown does not contain costs relating to education or manufacturing, or other non-research activities of the Beneficiary;</p> <p>The breakdown of overheads used to calculate overhead rates was reconciled to the accounts;</p>
<p>The accounting system provides for fully traceable elimination of:</p> <ol style="list-style-type: none"> <li>a) identifiable indirect taxes including value added tax,</li> <li>b) duties,</li> <li>c) interest owed,</li> </ol>	<p>The Auditor observed that the breakdown provided by the contractor did not explicitly relate to any of the items specified;</p> <p>The Auditor also confirmed (if necessary also via a written declaration/representation of the Beneficiary) that no implicit interest was included,</p>

<sup>2</sup> Excessive or reckless expenditure as defined in guidance notes to be issued by the Commission in 2007.

<b>Statements to be made by the Beneficiary and corresponding procedures to be carried out by the Auditor.</b> <i>For a methodology to be considered compatible with the requirements of the Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's system. Where a positive answer cannot be provided, this should be highlighted in the main summary of the report.</i>	
<p>d) provisions for possible future losses or charges,  e) exchange losses, cost related to return on capital,  f) costs declared or incurred, or reimbursed in respect of another Community project,  g) debt and debt service charges, excessive or reckless expenditure<sup>2</sup>.</p> <p>With regard to excessive or reckless expenditure, the Beneficiary confirms that that purchases are made according to the principles of best value for money (best price-quality ratio), transparency and equal treatment between Community funded grant agreement and any other agreement or convention that the Beneficiary may have.  Where the Beneficiary is allocating shared costs, they should provide a list of allocation methods used (usage records, floor space, activity-based-costing, headcount, etc.)</p>	<p>e.g., by finance leasing or other credit arrangements  For each allocation method used by the Beneficiary, the Auditor reconciled the amount to be allocated to the accounts, and reconciled the allocation basis to the relevant management accounting information (usage records, floor space, activity-based-costing, headcount, etc.)</p>
<p>If the organisation is using a simplified overhead calculation (either due to the lack of analytical accounting or use of a form of cash-based accounting) all estimates are clearly described and are based on factual criteria which can be objectively confirmed. The Beneficiary must provide a list of cost allocations which are not based on underlying management information.  In general costs which cannot be identified and allocated using a traceable source of information should not be concluded in the overhead calculation.</p>	<p>The Auditor was able to trace all cost allocation to underlying management information. No percentage estimates have been used which are not based on underlying traceable sources.</p>
<p>Allocation of overhead to the project is via personnel hours, either as [choose one]  — A percentage of personnel costs;  — A fixed hourly rate.</p>	<p>The Auditor confirmed that the allocation of overheads to the project corresponds with the methodology specified by the contractor;  Where percentages are used the Auditor confirmed that, the <b>'chargeable' personnel costs</b> (defined above) multiplied by the overhead percentage does not exceed the total <b>overheads to be allocated</b> defined above.;  Where a fixed hourly rate is used, the same productive hours figures are used to distribute overheads and personnel.</p>