

SEVENTH FRAMEWORK PROGRAMME GRANT AGREEMENT - ANNEX VII - FORM E

ERC GRANT AGREEMENT

**ANNEX V-B TERMS OF REFERENCE FOR THE CERTIFICATE ON THE METHODOLOGY**

TABLE OF CONTENTS

|   |          |
|---|----------|
| <b>TERMS OF REFERENCE FOR AN INDEPENDENT REPORT OF FACTUAL FINDINGS ON THE METHODOLOGY CONCERNING A ERC GRANT AGREEMENT FINANCED UNDER THE SEVENTH RESEARCH FRAMEWORK PROGRAMME (FP7) .....</b> | <b>2</b> |
| <b>INDEPENDENT REPORT OF FACTUAL FINDINGS ON THE METHODOLOGY CONCERNING A ERC GRANT AGREEMENT FINANCED UNDER THE SEVENTH RESEARCH FRAMEWORK PROGRAMME (FP7).....</b>                            | <b>4</b> |

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

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

## Terms of Reference for an Independent Report of factual findings on the methodology concerning a ERC 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 Union/European Atomic Energy Community financed ERC grant agreements concerning the Seventh Research Framework Programme (FP7), < title and number of the ERC grant agreements> (the 'ERC Grant Agreements'), concerning the Beneficiary's methodology for calculating personnel costs. Where in these ToR the European Research Council Executive Agency (the "Agency") and/or the 'European Commission' are mentioned this refers to their quality as signatory of the ERC Grant Agreements with the Beneficiary. The European Union/Euratom 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 ERC Grant Agreements with the European Commission and/or the Agency.

- The Beneficiary is responsible for preparing a Financial Statement<sup>1</sup> for the Action financed by the ERC Grant Agreements in compliance with such agreements and providing it to the Auditor, 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. This Financial Statement will be used as a basis for the procedures which the Auditor will carry out in the framework of this engagement. Notwithstanding the procedures to be carried out, the Beneficiary remains at all times responsible and liable for the methodology in place and the accuracy of the Financial Statement.
- The Beneficiary is responsible for the factual statements which will enable the Auditor to carry out the procedures specified, and will provide the Auditor with a written representation letter supporting these statements, clearly dated and stating the period covered by the statements.
- 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.

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

## 1.2 Subject of the Engagement

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

## 1.3 Reason for the Engagement

The Beneficiary submits to the European Commission a certificate on the methodology in the form of an independent report of factual findings on the methodology produced by an external auditor in accordance with Article II.4 of the ERC Grant Agreements. The Authorising Officer of the European Commission and/or the Agency requires this Report as he 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 ERC Grant Agreements. The objective of this Report is for the Auditor to present factual findings on methodology used by the Beneficiary to calculate costs in its Financial Statements for the actions financed by the ERC Grant Agreements. The procedures to be carried out will enable the European 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 ERC 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 the methodology of the Beneficiary.

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 an 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 the methodology, an example of which is attached to this ToR, 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 V of the General Conditions is compulsory. The Report should be written in the language indicated in Article 4 of the ERC Grant Agreement. In accordance with Article II.22 of the ERC Grant Agreement, the Agency, the European Commission and the European Court of Auditors have the right to audit any work carried out under the project for which costs are claimed from the European Union or *Euratom*. This audit may include 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, *liability, applicable law*, etc.]

*[legal name of the audit firm]*

*[name & function of authorised representative]*

<dd Month yyyy>

<Signature of the Auditor>

*[legal name of the Beneficiary]*

*[name & function of authorised representative]*

<dd Month yyyy>

<Signature of the Beneficiary>

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

*To be printed on letterhead paper of the Auditor*

<Name of contact person(s)>, < Position>

< Beneficiary's name>

<Address>

<dd Month yyyy>

Dear <Name of contact person(s)>

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. You requested certain procedures to be carried out in connection with the grant concerning *[title and number of the agreement]*, the ‘ERC Grant Agreement’. The Report covers the methodology used during the period [date]. In the event that the Beneficiary changes the methodology, the Report will not be applicable to Financial Statements<sup>2</sup> submitted thereafter.

**Objective**

Our engagement was an engagement to perform agreed-upon procedures regarding the methodology used to calculate personnel costs and overhead rates (indirect costs) in the context of the ERC grant agreements signed between you and the European Commission and/or the Agency under the Seventh Research Framework Programme (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 and/or the Agency uses to draw conclusions from the procedures performed by us.

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

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<sup>2</sup> Financial Statement in this context refers solely to Annex IV by which the Beneficiary claims costs under the Grant Agreement.

**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.

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 methodology for preparing cost claims by the Beneficiary is in accordance with the requirements of the EU/Euratom financed ERC 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:

|  |
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| <b>[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.]</b> |
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### 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/or the Agency and solely for the purpose of submission to the European Commission in connection with the requirements as set out in Article II.4 of the ERC Grant Agreement. This Report may not be relied upon by the Beneficiary or by the European Commission and/or the Agency for any other purpose, nor may it be distributed to any other parties. The European Commission and/or the Agency may only disclose this Report to others who have regulatory rights of access to it, in particular the European Commission, the European Anti Fraud Office and the European Court of Auditors.

This Report relates only to the methodology specified above and does not constitute a report on the 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

*[legal name of the audit firm]*

*[name and function of an authorised representative]*

*<dd Month yyyy>, <Signature of the Auditor>*

## SEVENTH FRAMEWORK PROGRAMME GRANT AGREEMENT - ANNEX VII - FORM E

**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 with examples of factual findings.</b><br><i>For a methodology to be considered compatible with the requirements of the ERC Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's methodology. Any exception 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 &amp; factual findings</b>  |
| <p>The methodology described below has been in use since [date].<br/>The next planned alteration to the methodology used by the Beneficiary will be from [date]</p>  | <p><b>Procedure:</b><br/>The Auditor has inspected records and documents which support the date given by the Beneficiary.<br/><b>Finding:</b><br/>The dates given by the Beneficiary are consistent with the management information provided by the Beneficiary.</p>  |
| <p><b>Personnel</b></p> <p>1. Time recording exists, with authorisation, which enables all personnel hours to be allocated to project work, management and administrative time, holidays, etc.<br/>The time recording enables the time of employees working on multiple projects to be allocated to those projects, and includes a check to prevent double charging of time.<br/><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, based on the period(s) corresponding to the Financial Statement(s) or to the last closed financial year (whichever is used by the beneficiary).</p> | <p><b>Procedure:</b><br/>For 10 employees selected at random, the Auditor checked:<br/>That the employee had recorded management and administrative tasks separately from project time;<br/>That an authorisation check exists which checks, inter alia, double-charging of time;<br/>The Auditor obtained the calculation of the productive hours after inspecting all necessary records, national legislation, labour agreements, contracts and any other relevant documentation<br/><b>Finding:</b><br/>For the items checked, the time recording includes separation of time as specified above, and an authorisation including a check for double charging of time.<br/>For the most recent full calendar year:<br/>The average productive hours for the 10 employees was _____.</p> |

| Statements to be made by the Beneficiary and corresponding procedures to be carried out by the Auditor with examples of factual findings.<br>For a methodology to be considered compatible with the requirements of the ERC Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's methodology. Any exception should be highlighted in the main summary of the Report.   |   |
|---|---|
| Statement to be made by Beneficiary   | Procedure to be carried out by the Auditor & factual findings   |
|   | <p>The average productive hours per employee for the organisation as a whole, as recorded by the Beneficiary's time records was _____.</p> <p>The productive hours calculation corresponds to the usual accounting practice of the beneficiary.</p>   |
| <p>2. Personnel costs of the employees only include standard salaries, employer's costs, etc. and no special conditions exist for employees on European Union or <i>Euratom</i> projects, unless they are explicitly foreseen in the Grant Agreement.</p>   | <p><b>Procedure:</b><br/>The Auditor reconciled the personnel costs used in the personnel cost calculation to the payroll system and accounting records.</p> <p><b>Finding:</b><br/>The amounts used in the costs calculation and those in the accounting records were the same.<br/>The costs consisted of standard salaries and statutory employers' costs, and did not include bonuses and confirmation was obtained from the Beneficiary that no special conditions exist for employees on European Union or <i>Euratom</i> projects.</p>   |
| <p>3. Hourly rates are correctly calculated using (3a or 3b as appropriate):<br/><b>3a: Actual personnel costs</b> based on one of the following possibilities [choose one]:</p> <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>standard</i> productive hours;</li> </ul> <p><b>3b:</b> For the average costing approach, the Beneficiary should state that:</p> <ul style="list-style-type: none"> <li>• The methodology used to calculate the average personnel hourly rate(s) represent(s) the usual cost accounting practice of the organisation;</li> <li>• Persons are allocated to the appropriate groups in accordance with the described methodology and the Full Time Equivalent (FTE) ratio is applied correctly;</li> <li>• Average personnel costs charged are based on the personnel costs registered in the statutory accounts of the organisation;</li> <li>• The calculation of the average personnel costs excludes ineligible items as defined in Art. II.14.3, of the ERC grant agreement or any costs claimed under other cost categories.</li> </ul> | <p><b>Procedure (apply 3a or 3b according to the method of calculation of personnel costs):</b></p> <p><b>3a:</b></p> <ul style="list-style-type: none"> <li>• The Auditor reviewed the calculation and confirmed that hourly rates are calculated as specified by the Beneficiary.</li> <li>• The Auditor multiplied the personnel hourly rate by the total productive hours for the period of the Financial Statement(s) or to the last closed financial year (whichever is used by the beneficiary) and reconciled the result to the accounting records ('chargeable' personnel costs).</li> </ul> <p><b>3b:</b></p> <ul style="list-style-type: none"> <li>• The auditor reviewed all relevant manuals and/or internal guidance describing the methodology used to calculate average personnel cost;</li> <li>• Obtained a list of all average personnel rates calculated by the beneficiary in accordance with the methodology used;</li> <li>• Obtained a list of all relevant employees (working on EU projects + not working on EU projects) based on which the average personnel rate(s) are calculated;</li> <li>• The auditor reviewed the allocation of employees to the relevant group(s) and verified the correctness of the Full Time Equivalent (FTE).</li> </ul> |

| Statements to be made by the Beneficiary and corresponding procedures to be carried out by the Auditor with examples of factual findings.<br><i>For a methodology to be considered compatible with the requirements of the ERC Grant Agreement a positive answer should be provided to all of the statements below regarding the Beneficiary's methodology. Any exception should be highlighted in the main summary of the Report.</i> |  |
|--|--|
| Statement to be made by Beneficiary  | Procedure to be carried out by the Auditor & factual findings  |
|  | <ul style="list-style-type: none"> <li>The auditor performed a numerical reconciliation between the total amount of personnel costs taken into consideration for the calculation of the average personnel rate and the total amount of personnel costs recorded in the statutory accounts;</li> <li>The auditor reviewed that any ineligible items in particular those enumerated in Article II.14.3 of the ERC grant agreement or any costs claimed under other costs categories etc.</li> </ul> <p><b>Finding:</b></p> <p><b>3a:</b></p> <ul style="list-style-type: none"> <li>No differences arose from the comparisons listed above.</li> <li>The result of the above reconciliation ('chargeable' personnel costs) in all cases did not exceed the costs recorded in the accounting records.</li> <li>The Auditor confirms that the rates used were not budgeted or estimated amounts.</li> </ul> <p><b>3b:</b></p> <ul style="list-style-type: none"> <li><u>The auditor found no discrepancies between the method described in the relevant documents and the method used by the beneficiary;</u></li> <li><u>No differences arose from the numerical reconciliation.</u></li> <li>The Auditor confirms that the rates used for the calculation of the average personnel costs were not based on budgeted or estimated amounts.</li> </ul> |

*[legal name of the Beneficiary]*  
*[name and function of an authorised representative]*  
 <dd Month yyyy>  
 <Signature of the Beneficiary>

*[legal name of the audit firm]*  
*[name and function of an authorised representative]*  
 <dd Month yyyy>  
 <Signature of the Auditor>