

MODEL CONTRACT

Cost reimbursement

for

transnational access to major research infrastructures

Contract No _____

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

of the one part,

and

- [*Name of contractor*] ([*acronym*]), ("the *coordinator*") established in [*name of State and full address*], represented by his legal/statutory/authorised representative[s], [Mr/Ms [*insert name*], [*function*], [Mr/Ms [*insert name*], [*function*],

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

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

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

(collectively "*the contractors*")

of the other part,

(collectively "*the contracting parties*"¹)

HAVE AGREED to provide transnational access for researchers to the major research infrastructure entitled "...("the *infrastructure*") in the framework of the specific research and technological development programme/specific research and training programme "*name of specific RTD programme*" (the "specific programme") according to the following provisions:

¹ The items in italics are used in accordance with the definition given in Article 1 of Annex II to this contract.

Article 1 – Scope

1. The *contractors* shall be responsible for carrying out the work set out in Annex I to this contract (the "*project*") in accordance with the conditions set out in this contract.
2. Subject to cases of *force majeure*, the *contractors* shall use reasonable endeavours to achieve the results intended for the project. Measures to be taken in the event of *force majeure* shall be agreed between the *contracting parties*.

Article 2 - Duration

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

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

- Articles 5, 6 and 8 of this contract,
- Article 4, Article 5(4) and (5), Article 8, Articles 10 to 17, Articles 18 and 21 of Annex II to this contract,

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

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

1. The total estimated *eligible costs* of the *project* are EUR [*insert amount*] ([*insert amount in words*] euros).
2. The Community shall fund the *eligible costs* of the *project* in accordance with the table of the indicative breakdown of the estimated *eligible costs* which follows the signatures to this contract up to a maximum of EUR [*insert amount*] ([*insert amount in words*] euros).
3. The Community's financial contribution to the *project* shall be paid as specified in Article 5 of Annex II to this contract to the *coordinator's* following bank account:

[*Coordinator's bank details*]

The initial advance for the *project* is fixed at EUR [*insert amount*] ([*insert amount in words*]). It shall be distributed among the *contractors* in accordance with the table of the indicative breakdown of the estimated *eligible costs*.

The total amount of the initial advance and the periodic payments shall not exceed the maximum amount of the Community's financial contribution referred to in paragraph 2 of this Article, less a guarantee retention. The guarantee retention shall be 15% of the maximum amount of that contribution.

Article 4 – Project deliverables to be submitted to the Commission

1. [[*Insert number*] copies of the reports and [*insert number*] copies of the cost statements] [[*insert number*] copies of the reports and of the cost statements] required under this contract shall be submitted by the *coordinator* in accordance with Article 6 of Annex II to this contract. The reports shall be in [*insert language*].

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

2. The periodic and final reports, the corresponding cost statements, including each integrated cost statement, shall cover [successive periods of [*insert number*] months from the *project commencement date*] [a first period ending on [*insert date*] and thereafter successive periods of [*insert number*] months].

Where the work is completed before the end of the *duration of the project*, the final report and the corresponding cost statement, including each integrated cost statement, together with the summary statement of amounts transferred to the *contractors* by the *coordinator* shall cover the period ending on such date.

The database report shall cover the *duration of the project*.

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

Upon the Commission's request, a contract review report shall be submitted as a basis for the technical verification of the *project* as specified in Article 22 of Part D of Annex II to this contract and shall cover the period indicated by the Commission.

Article 5 - Applicable law and jurisdiction

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

Article 6 - Special conditions

[No special condition applies to this contract.]

[The following special conditions apply to this contract:]

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

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

Article 7 - Amendments

This contract, including the Annexes thereto, may be modified only in writing, by way of an amendment agreed between the authorised representatives of the *contracting parties*. No verbal agreement may be binding on the *contracting parties* for this purpose.

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

Article 8 - Final provisions

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

Annex I - Description of work

Annex II - General conditions

[Annex III - Special conditions]

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

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

Article 9 - Signature and language of the contract

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

Done at Brussels/Luxembourg,

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

Name: (written out in full)

Title:

Signature: (stamp of the organisation)

On behalf of the Commission:

Name: (written out in full)

Title:

Signature:

Date:

Unit cost basis

Table - Indicative breakdown of estimated *eligible costs*

CONTRACTOR	ADVANCE	COST CATEGORY	
		Travel subsistence	and User fees
COORDINATOR			
CONTRACTOR			
CONTRACTOR			
CONTRACTOR			
TOTAL			

Table - Indicative breakdown of estimated *eligible costs*

Indicative breakdown of estimated *eligible costs* – Actual costs

Contractor No	Type of financial participation ¹	Rate of financial participation	Estimated <i>eligible costs</i> in euros	Maximum Community contribution in euros	Advance	Distribution of estimated <i>eligible costs</i> by category (in euros)							
						Travel and subsistence	Personnel	Subcontracting	Consumables	Computing	Other specific costs	Overheads	
Name of coordinator													
Name of contractor													
	(Total)		_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

ANNEX I – DESCRIPTION OF WORK

A. Work deliverables

Under this contract, access for *user groups* will be provided to the *infrastructure* entitled [...*name of the infrastructure*...] situated at [...*town and country*...], owned by [...*full name of legal entity*...] and operated by [...*full name of legal entity*...].

Within the *infrastructure*, access will be made available to the following installation(s):

[... Name(s) of the installation(s)....]

[... Minimum quantity...] of access offered.

This access will be provided free of all charge to the user groups given access to the *infrastructure* under this contract and will include all infrastructural, logistical, technical and scientific support (including training courses) that is normally provided to external users of the *infrastructure*.

It is estimated that [number of users][number of user groups] will benefit under this contract.

B. Dissemination of information to research teams

The *contractors* will publicise widely the access offered under this contract so that researchers throughout the Member States of the Community and the *Associated States* who might wish to have access to the *infrastructure* may be made aware of the possibilities open to them. In particular, a [...-monthly...] call for proposals will be [published in the following scientific journal(s):.....]

[Advertised on a dedicated Internet web page].

C. Selection of *user groups*

Following each call for proposals or other publication of the access offered under this contract (and more frequently, if necessary), the *user group selection panel* will meet to recommend a short-list of *user groups* that should benefit under the contract. The *panel* will typically be composed of [...number...] international experts, of whom at least [...2 or more...] will be independent and external to the *infrastructure*.

Selection will be on the basis of scientific merit taking into account the *interests of the Community*.

Priority will be given to research teams who have not previously used the *infrastructure* and who are working in regions of the Community where few such research *infrastructures* exist. Research teams conducting their research in the country where the *infrastructure* is located are not eligible to benefit under the contract.

Selection will also take into account that the contract is intended to finance primarily short visits to the infrastructure. For visits exceeding 3 months, the *contractors* will seek the prior written approval of the Commission.

D. Round-tables and user meetings

The *coordinator* of the *contractors* will nominate representatives to attend meetings organised by the Commission to bring together the operators of major *infrastructures* of the same type with representatives of their users. These so-called round-table meetings are expected to take place at least once a year to discuss annual activity reports and other subjects of common interest.

Meetings of the users benefiting under this contract will also be organised [...*frequency*...] by the *contractors* as a way of encouraging further scientific collaboration.

ANNEX II - GENERAL CONDITIONS

PART A: IMPLEMENTATION OF THE *PROJECT*

- Article 1 - Definitions
- Article 2 - Management of the *project* and role of the *coordinator*
- Article 3. - The *user group selection panel*
- Article 4. - Eligibility of research teams
- Article 5 - The Community's financial contribution
- Article 6 - Submission of *project deliverables*
- Article 7 - *Subcontracts*
- Article 8 - Liability
- Article 9 - Termination of the contract

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

- Article 10 - Ownership of *knowledge*
- Article 11 - Protection of *knowledge*
- Article 12 - Making *pre-existing know-how* available
- Article 13 - *Dissemination* of *knowledge* resulting from the *project*
- Article 14 - Publicity and communications concerning the *project* and *knowledge*
- Article 15 - Confidentiality
- Article 16 - Communication of data for evaluation and standardisation purposes
- Article 17 - Incompatible or restrictive commitments

[PART C: REIMBURSEMENT OF COSTS /UNIT COST BASIS

- Article 18 - Eligible costs - general principles
- Article 19 - Travel and subsistence
- Article 20 - *User fees*]

[PART C: REIMBURSEMENT OF COSTS /ACTUAL COST BASIS

- Article 18 - Eligible costs - general principles
- Article 19 - Travel and subsistence
- Article 20 - Additional costs of providing access to the infrastructure]

PART D: AUDITING

- Article 21 - Financial audit
- Article 22 - Technical verification of the *project*

PART E.1: COST STATEMENT [UNIT COST BASIS] [ACTUAL COST BASIS]

PART E.2: INTEGRATED COST STATEMENT [UNIT COST BASIS] [ACTUAL COST BASIS]

PART A: IMPLEMENTATION OF THE PROJECT**Article 1 - Definitions**

1. "*Decision*" means Council Decision 1999/65/EC of 22 December 1998 concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998 - 2002).²
2. "*Regulation*" means Commission Regulation (EC) No 996/1999 of 11 May 1999 on the implementation of Council Decision 1999/65/EC concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998-2002).³
3. "*Contracting parties*" means the Community and the *contractors*.
4. "*Contractor*" means a legal entity, an international organisation, or the Joint Research Centre (JRC), which has concluded this contract with the Community.
5. "*Coordinator*" means the *contractor* carrying out the tasks provided for in Article 2(1) of this Annex.
6. "*Subcontract*" means an agreement to provide services, supplies or goods concluded between the *contractors* and one or more *subcontractors* for the specific needs of the *project*.
7. "*Subcontractor*" means a legal entity, an international organisation or the JRC, which has concluded a *subcontract*.
8. "*Project*" means all the work referred to in Annex I to this contract.
9. "*Project commencement date*" means the date referred to in Article 2(1) of this contract.
10. "*Duration of the project*" means the period of performance of the *project* as referred to in Article 2(1) of this contract.
11. "*Contract completion date*" means the date referred to in Article 2(2)(2) of this contract.
12. "*The coordinator*" means the *coordinator* carrying out the tasks provided for in Article 2(2) of this Annex..

² O.J. No L 26, 1.2.1999, p. 46.

³ O.J. No L26, 1.2.1999, p. 56

13. "*Project deliverables*" means the reports and cost statements referred to in Article 4 of this contract and Article 6 of this Annex as well as any element designated as such in Annex I to this contract.
14. "*Associated State*" means a State party to an international agreement concluded with the Community, in particular on the basis of Article 170 of the Treaty establishing the European Community, under which that State makes a financial contribution to the Fifth Framework Programme.
15. "*Third country*" means a country other than a *Member State* or an *Associated State*.
16. "*International organisation*" means any 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.
17. "*Change of control*" means any change in the control exercised over the *contractors*. Such control may result in particular from:
 - the direct or indirect holding of a majority of the share capital of *contractors* or a majority of the voting rights of the latter's shareholders or associates,
 - or
 - the direct or indirect holding in fact or in law of decision-making powers within a *contractor*.
18. "*Force majeure*" means any unforeseeable and insuperable event affecting the carrying out of the *project* by the *contractors*.
19. The "*interests of the Community*" are to be assessed in particular with regard to:
 - the objective of strengthening the international competitiveness of Community industry,
 - the objective of providing appropriate incentives for maintaining and creating jobs in the Community,
 - the objective of promoting sustainable development and improving the quality of life in the Community,
 - the needs of other Community policies in support of which indirect RTD actions are carried out,
 - the existence of scientific and technical co-operation agreements between the Community and third countries or international organisations.
20. "*Knowledge*" means the results, including information, arising from any *project* covered by Decision No 182/1999/EC of the European Parliament and Council of 22 December 1998 concerning the Fifth Framework Programme of the European

Community for research, technological development and demonstration activities (1998 - 2002)⁴ (hereinafter referred to as the "Fifth Framework Programme"), as well as copyright or rights attaching to the results following applications for or the issue or registration of, patents, designs and models, plant varieties, additional certificates or other similar forms of protection.

21. "*Pre-existing know-how*" means information, other than *knowledge*, held by the *contractors* prior to the conclusion of the contract or acquired in parallel with it and necessary for carrying out the *project*, as well as copyright or rights attaching to such information following applications for, or the issue or registration of patents, designs and models, plant varieties, additional certificates or other similar forms of protection.
22. "*Dissemination*" means the disclosure of *knowledge* by any appropriate means other than the publication resulting from the formalities for protecting the knowledge, for the purpose of promoting scientific and technical progress.
23. "*Infrastructure*" means the major research *infrastructure* to which *user groups* are provided transnational access under the contract.
24. "*Users*" means one or more researchers within a *user group*.
25. "*User group*" means a research team of one or more researchers given access to the *infrastructure* under this contract.
26. "*Panel*" means the *user group* selection *panel* specified in Article 3 of this Annex.
27. "*Small and medium-sized enterprises*" (hereinafter referred to as "*SMEs*") means enterprises which meet the criteria set out in Commission Recommendation 96/280/EC⁵ namely:
 - have fewer than 250 employees (full-time equivalents), and
 - have either an annual turnover not exceeding EUR 40 million or an annual balance-sheet total not exceeding EUR 27 million, and
 - conform to the criterion of independence as defined in the Recommendation;
28. "*Legitimate interest*" means any interest, in particular of a commercial nature, of a *contractor* which may be invoked in the cases provided for in this Annex provided that the *contractor* demonstrates that the damage to that interest is likely, given the circumstances, to cause a specific prejudice that is disproportionate, considering the objectives of the provision in respect of which it is invoked.

⁴ O.J. No L 26, 1.2.1999, p. 1.

⁵ O.J. No L 107, 30.4.1996, p. 4.

29. “*Eligible costs*” means the costs designated in Articles 19 and 20 of this Annex, in compliance with the conditions laid out in Article 18.

Article 2 - Management of the *project* and role of the *coordinator*

1. The *contractors* shall make appropriate arrangements for the efficient management of the project and shall:
 - (a) agree upon appropriate arrangements for the proper performance of the work incumbent upon them pursuant to Annex I to this contract. To this end, they shall designate one or more persons from among those referred to in Article ...(1) of this Annex who shall direct their work and ensure that the tasks assigned are correctly performed;
 - (b) conclude amongst themselves, if necessary, a *consortium agreement* in accordance with the provisions of this contract and the competition rules. Such agreement may, *inter alia*, specify the organisation of the work and supplement the provisions concerning the *access rights* referred to in Article 12 to 15 of this Annex;
 - (c) ensure the right of access to the infrastructure for *user groups* selected in accordance with Articles 3 and 4 of this Annex;
 - (d) ensure that *users* comply with the terms and conditions of this contract, in particular with Part B of this Annex;
 - (e) notify the *coordinator* of any event liable to substantially affect the *project*, including any change in a person mentioned in point (a) of this paragraph, any *change of control*, and of any circumstance affecting the conditions of participation referred to in Articles 3 to 12 of the *Decision*;
 - (f) confirm that the costs charged to the contract are consistent with, and reasonable for, the access provided;
 - (g) keep duly signed original copies of *subcontracts*, if any have been concluded;
 - (h) provide access free of charge to *user groups* including all infrastructural, logistical, technological and scientific support (including training courses) as stated in Annex I Part A;
 - (i) publicise widely the access offered as stated in Annex I Part B.
 - (j) forward to the *coordinator* the data needed to draw up the reports provided for in Article 4 of this contract and in Article 4 of this Annex and forward the corresponding cost statements, if any. They shall do likewise in respect of any other *project deliverable*, except where Annex I provides otherwise;
 - (k) inform the *coordinator* of transfers in the budget set out in the table setting out the indicative breakdown of the estimated eligible costs, between them

and between categories, as soon as they have carried out such transfers in compliance with the conditions set out in Article 22(5) of this Annex;

- (l) take part in meetings concerning the supervision, monitoring and evaluation of the *project* which are relevant to them;
2. The *coordinator* shall be in charge of the scientific, financial and administrative coordination of the *project*. In this capacity:
- (a) he shall manage and direct the project;
 - (b) he shall be the intermediary between the *contractors* and the Commission. In particular, he shall be responsible for transmitting to the Commission all documents and correspondence relating to the *project* and for submitting to the Commission the *project deliverables* specified in Article 4 of this contract and Article 6 of this Annex;
 - (c) he shall notify the Commission, in writing, of:
 - the actual *project* commencement date, and in particular measures taken by the *contractors* in implementation of Article 3(1) of this Annex, and of the person designated by each *contractor* in accordance with paragraph (2)(a) of this Article;
 - the membership of the *panel* and the draft short-list of *user groups* recommended by the *panel*, in implementation of Article 3(4) of this Annex;
 - any transfer in the budget set out in the table setting out the indicative breakdown of the estimated eligible costs between categories in accordance with Article 18(6) of this Annex;
 - d) he shall submit to the Commission:
 - the cost statements provided for in Article 4 of this contract and of this annex,
 - the periodic, final and supplementary reports provided for in Article 4 of this contract and of this Annex after incorporating the content of the data provided by the *contractors* and verifying their consistency with the corresponding cost statements,
 - (e) he shall designate representatives to attend meetings organised by the Commission as stated in Annex I Part D;
 - (f) in his capacity as representative of the *contractors* he shall receive, subject to the special conditions set out in Article 6 of this contract, all the payments made by the Commission to the account referred to in Article 3(3) subparagraph 1 of this contract;
 - (g) not being the beneficiary of payments intended for other *contractors* pursuant to this contract, he shall transfer to them within 30 days of receipt of the funds paid by the Commission the amount owing to them up to the maximum provided under Article 3(1)(b) subparagraph 3 of this contract.

he shall inform the Commission of the distribution of the funds and of the date of transfer by means of the form in Part E-3;

- (h) he shall inform the other *contracting parties* of any event liable to substantially affect the *project* of which he is aware, including any change in a person mentioned in paragraph (2)(b) of this article, any *change of control* with regard to a *contractor* and any circumstance affecting the conditions of participation referred to in Articles 3 to 12 of the *Decision*;
- (i) he shall inform the Commission of transfers in the budget set out in the table of the indicative breakdown of the estimated eligible costs between *contractors* and between categories, carried out in compliance with Article 22(5) of this Annex upon notification by those concerned.

Without prejudice to Article 9(2)(b) of this Annex, if the *coordinator* fails to perform his obligations, the Commission may, in agreement with the other *contractors*, designate another *coordinator* from among the *contractors*.

The *contractors* shall ensure that the abovementioned tasks are effected..

Article 3 - The user group selection panel

1. The *contractors* shall take all reasonable measures to inform research teams throughout the Member States and *Associates States* who may wish to have access to the *infrastructure* about the possibilities open to them under this contract (in particular, the eligibility criteria set out in Article 4 of this Annex). Research teams requesting access shall be required to submit in writing to the *contractors* proposals describing the work that they wish to carry out at the *infrastructure* and the names, nationalities and places of work of the researchers expected to take part.
2. The contract is intended to provide access to *user groups* for short periods of time, which, depending on the nature of the *infrastructure*, would not normally exceed three months.
3. The selection of proposals shall be carried out in conformity with Part C of Annex I and Articles 3 and 4 of this Annex by a *user group selection panel* composed of international experts of whom at least two will be independent and external to the *infrastructure* so as to ensure an independent peer review of all applications based on scientific merit and the *interests of the Community*. Research teams shall not be required to submit or to defend their proposals in person. In general, the *panel* shall meet at least twice a year.
4. The initial membership of the *panel* shall be communicated, as a written notice, to the Commission soon after the signature of the contract. Unless the Commission replies within one month of receipt of the notice, the membership shall be deemed to have been approved by the Commission. Changes in the membership shall similarly be communicated to the Commission for its approval.
5. The *panel* shall assess all proposals received and shall recommend a draft short-list of the *user groups* to be supported. In drawing up this draft short-list, the *panel* shall be guided by the selection criteria and priorities established in Part C of Annex I to this contract together with Article 4 of this Annex.

6. The *coordinator* shall communicate, as a written notice, to the Commission the draft short-list recommended by the *panel* and obtain the approval of the specific programme management before proceeding. The information to be included when communicating the draft short-list to the Commission shall be in conformity with any reasonable rules notified by the Commission. In particular, such information shall include, for each *user group* on the draft short-list as well as for each research team that submitted a proposal, a descriptive title for the work it wishes to carry out at the *infrastructure* and the names, nationalities and places of work of the researchers expected to take part.
7. Within one month of receiving the draft short-list, the Commission shall submit its observations or notify the *contractors* of the need for a longer period, failing which it shall be deemed to have approved the short-list.
8. The Commission may, within the overall scope and financial limits of the contract, request the *contractor* to follow priorities in the selection of *user groups* in the *interest of the Community* and with a view to reinforcing the scientific and technological cohesion of the Community. The *contractors* shall not unreasonably withhold their agreement to such requests.
9. As soon as the short-list has been approved by the Commission, the *contractors* shall immediately inform those *user groups* on the short-list of the benefits open to them under this contract and of their obligations, particularly in relation to Part B of this Annex.

Article 4 - Eligibility of research teams

1. In implementing the project, the *contractors* shall apply the eligibility criteria set out in Part C of Annex I to this contract and in this Article.
2. Only research teams conducting their research in the Member States and *Associated States* are eligible to benefit from access to *the infrastructure* under this contract.
3. Only research teams that are entitled to disseminate or arrange the *dissemination* of the *knowledge* they have generated under the *project* are eligible to benefit from access to *the infrastructure* under this contract. An exception to this rule may be made only in the case of a research team from an *SME* which wishes to use the *infrastructure* for the first time.
4. Research teams conducting their research in the country where the *contractor* is located are not eligible to benefit under this contract. This exclusion shall not apply to *contractors* which are *international organisations*, or the JRC.

Article 5 - The Community's financial contribution

1. The Community's financial contribution shall be paid in accordance with the following principles:
 - a) An initial advance shall be paid to the *coordinator* within a period of 60 days running from the date of the last signature of the *contracting parties*. The *coordinator* shall distribute the advance in accordance with the table setting out the indicative breakdown which follows the signatures to this contract

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

- (i) either terminate the contract pursuant to Article 9 (2) (a) of this Annex,
 - (ii) or decide to add interest to the initial advance from the date of payment until the effective date of commencement of the work at the rate applied by the European Central Bank for its main financing operations on the first day of the month during which the three months time limit has expired. Such interest shall be deducted from the subsequent payment made by the Commission.
- b) Periodic payments shall be made within a maximum period of 60 days from the date on which the Commission approves or is deemed, in accordance with Article 6 (3) fifth subparagraph of this Annex, to have approved the periodic reports, the corresponding cost statements or other *project deliverables*.

The amounts of the periodic payments shall be calculated on the basis of the *eligible costs* approved by the Commission. On each periodic payment, an amount corresponding to a part of the initial advance shall be recovered, calculated on the basis of the relationship between the *eligible costs* approved by the Commission and the forecast expenses for the period considered.

- c) The final payment of the Community's financial contribution shall be made within a maximum period of 60 days from the date on which the Commission approves or is deemed, in accordance with Article 6 (3) fifth subparagraph of this Annex, to have approved the last *project deliverable*.

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

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

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

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

2. Where the Commission suspects fraud or serious financial irregularity on the part of a *contractor*, it may suspend its payments and/or order the *coordinator* to refrain from making any payment to that *contractor*. The latter shall remain bound by his contractual obligations.
3. Subject to Article 21 of this Annex, all payments shall be treated as advances until the last *project deliverable* is approved.
4. Where the total financial contribution due from the Community taking into account any adjustments, including as a result of a financial audit as provided for in Article 21 of this Annex, is less than the total amount of the payments referred to in paragraph 1 first subparagraph, the *contractors* concerned shall reimburse the difference, in euros, within the time limit set by the Commission in its request sent by registered letter with acknowledgement of receipt.

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

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

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

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

5. After the *contract completion date*, the termination of the contract or the termination of the participation of a *contractor*, the Commission may or shall, as relevant, where fraud or serious financial irregularities have been discovered during a financial audit, claim from the *contractor* concerned the repayment of all the Community's financial contribution paid to him. Interest at the rate applied by the European Central Bank for its main refinancing operations on the first day of the month during which the *principal contractor* concerned received the funds plus two percentage points shall be added to the amount to be repaid. The interest shall cover the period between the receipt of the funds and their repayment.

Article 6 - Submission of *project deliverables*

1. As regards reports:

The following reports shall be submitted to the Commission for approval:

- (a) a database report, to be updated if necessary annually, suitable for publication in an electronic database and in the yearbooks of the *specific programme*;

- (b) periodic progress reports providing the names, nationalities, and places of work of *users* within the *user groups* given access to the *infrastructure* under this contract, the access provided to them and other information necessary for the Commission to monitor the contract;
- (c) a contract review report, upon the Commission's request, to be the basis for the technical verification of the project according to Article 22 of this Annex.
- (d) a final report covering all the work, the objectives, the results and the conclusions, including a summary of all the latter.
- (e) where the reports referred to in points (b) and (d) cannot be published in full, they shall, in addition, be presented in a suitable form for publication by the *contracting parties*.

The layout of the reports shall conform to the rules communicated by the Commission. The reports for publication should be of a suitable quality to enable direct reproduction.

2. As regards cost statements:

- a) Cost statements shall be expressed in euros and in the currency used in the accounting of the *contractor*. The euro conversion and exchange rates for cost statements and related payments shall be the rates published by the Commission for the implementation of the budget and in force on the first working day of the month following the period covered by the cost statement concerned.

No account shall be taken of exchange rate gains or losses between the time of establishment of the cost statement and the receipt of the corresponding payment.

- b) *The contractors* shall submit their cost statements to the Commission via the *coordinator* in the format specified in Part E of this Annex.

3. Each periodic report and the corresponding cost statements, including the integrated cost statement, shall be submitted to the Commission within two months of the end of the period covered by the report.

The database report shall be submitted initially within 2 months of the *project commencement date*.

The final report and the cost statement for the final period, including the integrated cost statement, shall be submitted to the Commission within two months of the end of the *duration of the project*.

The other *project deliverables* shall be submitted within the time limits set out in Annex I to this contract.

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

4. The Commission reserves the right to withhold part or, exceptionally, all of the payment of the Community's financial contribution until the period covered by the next cost statement in case of failure to submit, within the time limits laid down in

paragraph 3 of this Article or in Annex I as relevant, a cost statement or a periodic report or other *project deliverable*.

The Commission may decide not to make the payment corresponding to the costs incurred during the final period in case of failure to submit, within the time limits laid down in paragraph 3 of this Article:

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

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

Article 7 - Subcontracts

1. The *contractors*, may, on an actual cost basis, conclude *subcontracts* where this proves necessary for the performance of their work.

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

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

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

whichever amount is the lowest.

(b) where the *subcontractors* are established in a *third country*, unless the *contractors* are established there.

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

2. The *contractors* shall ensure that *subcontracts* include an obligation for the *subcontractors*:
 - to submit invoices making reference to the *project* and providing a detailed description of the tasks or supply concerned,
 - to submit to the controls provided for in Articles 21 and 22 of this Annex.

Article 8 - Liability

1. The liability of the *contracting parties* amongst themselves with regard to any losses, damages or injuries suffered in the context of the performance of this contract shall be governed by the law indicated in Article 5(1) of the contract.
2. The *contractors* shall take all necessary and reasonable measures to carry out the work incumbent on a defaulting *contractor*. However, they shall not be required to reimburse amounts owed by a *contractor* unless they have contributed to his defaulting.

The measures to be taken in the event of *force majeure* shall be agreed between the *contracting parties*. The *contracting parties* expressly agree that any defect in respect of a product or service used for the purpose of performing this contract and affecting such performance, including, for instance, anomalies in the functioning or performance of such product or service resulting from, or linked to the millennium date change (year 2000 problem), does not constitute *force majeure*.

3. The Community cannot be held responsible for acts or omissions of the *contractors* in performing this contract. It shall not be liable for any defects in respect of any products or services created on the basis of *knowledge* resulting from the *project*, including, for instance, anomalies in the functioning or performance thereof resulting from, or linked to the millennium date change (year 2000 problem)

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

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

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

Article 9 - Termination of the contract

1. The Commission and the *contractors* may terminate the contract for major technical or economic reasons substantially affecting the *project* (including where the resumption of the performance of the contract following its suspension on account of *force majeure* proves impossible).

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

The termination of the contract at the written request of the *coordinator* shall be effective on the date of the letter of acceptance by the Commission notified by registered letter with acknowledgement of receipt or at the latest one month following receipt of notification by the *coordinator* in the absence of written observations by the Commission within this time limit.

2. The Commission may immediately terminate this contract from the date of receipt of a registered letter with acknowledgement of receipt:

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

In the event of termination of this contract or of the participation of a *contractor*:

- (a) pursuant to paragraph 1 of this Article, the Community's financial contribution shall cover *eligible costs* relating to *project deliverables* approved by the Commission and also *eligible costs* subsequently incurred in good faith before the date mentioned in the first subparagraph.
- (b) pursuant to paragraph 2(b) or (d) of this Article, the Commission may require reimbursement of all or part of the Community's financial contribution, taking into account the nature and results of the work carried out and its usefulness to the Community in the context of the specific programme concerned.
- (c) pursuant to paragraph 2(c) or paragraph 3(a) of this Article, the Commission shall only reimburse the *eligible costs* relating to accepted *project deliverables* and

incurred before the event giving rise to the termination of the contract, and also eligible costs subsequently incurred in good faith before the date mentioned in the first subparagraph of this paragraph.

(d) pursuant to paragraph 2(a) or (e) or paragraph 3(b) of this Article, the Commission may require repayment of all or part of the Community's financial contribution. Interest at the rate applied by the European Central Bank to its operations on the first day of the month during which the *contractor* concerned received the funds plus two percentage points shall be added to the amount to be repaid. The interest shall cover the period between the receipt of the funds and their repayment.

6. Notwithstanding the termination of the contract, the following provisions shall continue to apply after that date subject to the limits specified therein, as the case may be:

- Articles 5, 6 and 8 of this contract,
- Article 4, Article 5(4) and (5), Article 8, Articles 10 to 17, Articles 18 and 21 of this Annex.

The *contractors* shall submit the *project deliverables* relating to the work performed until the date of termination of the contract or the date when their participation ends.

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

Article 10 - Ownership of *knowledge* resulting from the *project*

The *contractors* shall agree with the *users* on the allocation and the terms of exercising the ownership of *knowledge* resulting from the *project* in accordance with this contract.

Article 11 - Protection of *knowledge* resulting from the *project*

The owners shall provide adequate and effective protection for *knowledge* which they own.

Article 12 - Making *pre-existing know-how* available

1. Non-commercial user rights shall be granted by the *contractors*, on request, in accordance with paragraphs 2 and 3 of this Article, provided that they are free to grant such rights.
2. The granting of non-commercial user rights may be made conditional on the conclusion of specific agreements aimed at ensuring that they are used only for the intended purpose and appropriate confidentiality agreements.
3. *Users* shall enjoy, on a royalty-free basis, non-commercial user rights to the *pre-existing know-how* needed to carry out their work in the framework of the *project*.

Article 13 - Dissemination of *knowledge* resulting from the *project*

1. Without prejudice to Article 4, the *contractors* shall use their best efforts to cause the owners of *knowledge* resulting from the *project* and which lends itself to *dissemination* to disseminate such *knowledge*.
2. Upon written request of the Commission, the owners of *knowledge* resulting from the *project* shall agree with the former on terms and conditions of *dissemination* of *knowledge*, in particular, within a reasonable time limit in accordance with the need to safeguard intellectual and industrial property rights

Article 14 - Publicity and communications concerning the *project* and *knowledge*

1. The *contractors* and the *users* shall, throughout the *duration of the project*, take appropriate measures to ensure suitable publicity for the *project* in order to highlight the support provided by the Community. The Commission may agree on such measures with the *contractors*.
2. The Commission may disseminate, by any appropriate means and for as long as necessary, general data relating in particular to the objectives, the estimated total cost, the duration and the state of progress of the *project*, to the Community's financial contribution and to the *knowledge* described in the final report. The legal designation of the *contractors*, *user groups* and *users* themselves shall also be

published unless they object to this in advance on the basis of essential *legitimate interests*.

Where the measures referred to in the first subparagraph presuppose access by the Commission or its duly authorised representatives to the premises of the *infrastructure*, the *contractors* may refuse such access on the basis of *legitimate interests*.

On request and where they are free to do so, the *contractors* and the *users* shall grant the Commission an irrevocable non-exclusive right, on a royalty-free basis, to translate, reproduce and distribute articles for scientific and technical journals, conference papers and other documents drawn up in the framework of the *project*.

3. In the case of reports referred to in Article 6(1)(b) and (d) of this Annex which cannot be published, the Commission may, on request, transmit these documents to other Community institutions on a confidential basis and within the limits of such a request.
4. Any communication or publication, whatever the form or medium (including the Internet), concerning the state of progress with the *project* or concerning *knowledge*:

- shall mention the relevant specific programme and the support provided by the Community,

and

- shall, where it is made by the *contractors* or by a *user*, specify that the information provided is the sole responsibility of the author and does not reflect the Community's opinion, and that the Community is not responsible for any use that might be made of data appearing in this communication or publication.

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

Article 15 - Confidentiality

1. Without prejudice to Article 14 of this Annex and any other obligation contained in this contract, the Commission, the *contractors* and the *users* shall be required to keep confidential any data, *knowledge*, *pre-existing know-how* and documents communicated to them on a confidential basis or the disclosure of which may be prejudicial to one of them.

This obligation shall no longer apply:

- where the content of these data, *knowledge*, *pre-existing know-how* and documents becomes publicly available through work or actions lawfully performed outside this contract and not based on activities under it,

- where these data, *knowledge, pre-existing know-how* and documents have been communicated without any confidentiality restrictions or where the disclosing party subsequently waives their confidentiality.
2. Where this contract provides for the communication of any data, *knowledge, pre-existing know-how* or document referred to in paragraph 1 of this article, the assignor shall first satisfy themselves that the recipient will keep it confidential and use it only for the purpose for which it is to be communicated.

Article 16 - Communication of data for evaluation and standardisation purposes

1. Without prejudice to Article 15 of this Annex, *contractors* shall be required to provide, at the request of the Commission or its authorised representatives, data necessary for:

- the continuous review of the specific programme concerned and the Fifth Framework Programme,
- and
- the evaluation of Community activities over the five years preceding that evaluation.

Such a request may be made throughout the duration of the contract and up to five years after the *contract completion date*.

The data collected shall be used exclusively in a statistical form.

2. Without prejudice to the provisions regarding the protection of the knowledge and the confidentiality set out respectively in Articles 11 and 15 of this Annex, the *contractors* must, during the entire *duration of the contract* and the two years following the *contract completion date*, inform the Commission and the standardisation bodies about knowledge resulting from the project which may contribute to the preparation of European or, where appropriate, international standards or to an industrial consensus on technical issues.

To this end, they shall communicate appropriate data on such knowledge to the Commission and to the standardisation bodies concerned.

Article 17 - Incompatible or restrictive commitments

1. The *contractors* shall take all necessary steps to avoid commitments that are incompatible with the obligations provided for in Articles 10 to 16 of this Annex.
2. Without prejudice to paragraph 1 of this Article, the *users* shall be informed, as soon as possible, by the *contractors* required to grant non-commercial user rights, as referred to in Article 12 of this Annex, as the case may be, of any limitations to the granting of these rights.

PART C: REIMBURSEMENT OF COSTS

<h3>UNIT COST BASIS</h3>

Article 18 - Eligible costs - general principles

1. *Eligible costs* are the costs defined in Articles 19 and 20 of this Annex. They shall fulfil the following conditions:
 - be necessary for the *project*,
 - be incurred during the *duration of the project*,
 - be determined in accordance with the accounting principle based on historic costs and the usual internal rules of the *contractors*, provided that they are regarded as being acceptable by the Commission,
 - be recorded in the accounts no later than the *contract completion date* or in the tax documents, and
 - exclude any profit margin.

2. Non-eligible costs are in particular the following:
 - costs related to return on capital employed,
 - provisions for possible future losses or charges
 - interest owed,
 - provisions for doubtful debts,
 - resources made available to the *contractor* free of charge,
 - value of contributions in kind,
 - unnecessary or ill-considered expenses,
 - marketing, sales and distribution costs for products and services,
 - indirect taxes and duties, including VAT,
 - entertainment or hospitality expenses, except such reasonable expenses accepted as wholly and exclusively necessary for carrying out the work under the contract,
 - any cost incurred or reimbursed, in particular in respect of another Community, international or national project.

3. In the case of *contractors* being *international organisations*, the access financed by this contract shall be both complementary to their mission and not eligible for support from their own financial resources.

4. A *contractor's* cost shall only be chargeable to one of the *eligible cost* categories set out in Articles 19 or 20 of this Annex, if applicable.
5. *Eligible costs* shall be reimbursed where they are justified by the *contractors*.

To this end, the *contractors* shall maintain, on a regular basis and in accordance with the normal accounting conventions of the State in which they are established, the accounts for the *project* and appropriate documentation to support and justify in particular the cost and amount of access reported in their cost statements.

This documentation must be precise, complete and effective. It shall include records of the presence at the *infrastructure* of all *users* within the *user groups* benefiting under the contract, their nationality, their place of work and the access provided to them. Such records shall be maintained throughout the *duration of the project* and be certified at least once a month by the *coordinator*.

6. The *contractors* shall be authorised to transfer between themselves the budget provided for in the table setting out the indicative breakdown of estimated *eligible costs*, provided that:
 - they inform the Commission of such transfer upon signing an agreement confirming that the scope of the *project* and the conditions of participation referred to in Articles 3 to 12 of the *Decision* are not fundamentally altered,

and

 - the total amounts successively transferred do not exceed 20% of the amount allocated to the beneficiary in the table setting out the indicative breakdown of estimated *eligible costs*.

Any other properly substantiated transfer approved by all the *contractors* directly concerned shall require prior written approval by the Commission.

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

Each *contractor* shall be authorised to transfer the budget in the table setting out the indicative breakdown of estimated *eligible costs* between categories of costs, in compliance with subparagraphs 1 and 2. However, he shall not be required to obtain the agreement of the other *contractors*.

Article 19 - Travel and subsistence costs

Actual travel and related subsistence costs shall be established on the basis of the usual rules of the *contractors* and may be charged to the contract for the following categories:

- For *users* when travelling to visit the *infrastructure*. The travel and subsistence costs of such *users* shall also be reimbursed when they attend user meetings.
- For members of the *panel* when travelling in connection with their duties as panel members.

- For representatives of the *contractors* or of the *users* when travelling to attend round-table or similar meetings at the request of the specific programme management.

The prior agreement of the Commission shall be required for any travel outside the territory of the Member States and the *Associated States*, unless it is provided for in Annex I to this contract.

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

[Article 20 - User fees]

1. The following unit cost(s) shall be the basis for calculating the user fees throughout the *duration of the contract*. These are charged in relation to the access provided to *user groups*, selected in accordance with Articles 3 and 4 of this Annex:

...euros/ (unit of access)

2. The unit cost(s) shall not exceed published user fees, used for similar research for Member States or *Associated States*, public funding agencies or *international organisations* and shall be considered reasonable in the view of the Commission.
3. The *user fees* charged to the contract shall be calculated according to the following formula:

Unit cost(s) X actual amount of access

Where:

- the unit cost(s) shall be as defined in paragraph 1 of this Article;
 - access shall be as defined in Annex I of this contract and must be recorded throughout the *duration of the project* in the records of presence referred to in paragraph 5 of Article 18 of this Annex.
4. These *user fees* are deemed to reimburse the *contractors* for all additional costs arising from the implementation of the *project*, other than the costs covered by Article 19 of this Annex.

PART C: REIMBURSEMENT OF COSTS

<h3>ACTUAL COST BASIS</h3>

Article 18 - Eligible costs - general principles

1. *Eligible costs* are the costs defined in Articles 19 and 20 of this Annex. They shall fulfil the following conditions:
 - be necessary for the *project*,
 - be incurred during the *duration of the project*,
 - be determined in accordance with the accounting principle based on historic costs and the usual internal rules of the *contractors*, provided that they are regarded as being acceptable by the Commission,
 - be recorded in the accounts no later than the *contract completion date* or in the tax documents, and
 - exclude any profit margin.

2. Non-eligible costs are in particular the following:
 - costs related to return on capital employed,
 - provisions for possible future losses or charges
 - interest owed,
 - provisions for doubtful debts,
 - resources made available to the *contractor* free of charge,
 - value of contributions in kind,
 - unnecessary or ill-considered expenses,
 - marketing, sales and distribution costs for products and services,
 - indirect taxes and duties, including VAT,
 - entertainment or hospitality expenses, except such reasonable expenses accepted as wholly and exclusively necessary for carrying out the work under the contract,
 - any cost incurred or reimbursed, in particular in respect of another Community, international or national project.

3. In the case of *contractors* being *international organisations*, the access financed by this contract shall be both complementary to their mission and not eligible for support from their own financial resources.

4. A *contractor's* cost shall only be chargeable to one of the *eligible cost* categories set out in Articles 19 or 20 of this Annex, if applicable.
5. *Eligible costs* shall be reimbursed where they are justified by the *contractor*.

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

This documentation must be precise, complete and effective. It shall include records of the presence at the *infrastructure* of all *users* within the *user groups* benefiting under the contract, their nationality, their place of work and the access provided to them. Such records shall be maintained throughout the *duration of the project* and be certified at least once a month by the *coordinator*.

6. The *contractors* shall be authorised to transfer between themselves the budget provided for in the table setting out the indicative breakdown of estimated *eligible costs*, provided that:
 - they inform the Commission of such transfer upon signing a declaration confirming that the scope of the *project* and the conditions of participation referred to in Articles 3 to 12 of the *Decision* are not fundamentally altered,

and

 - the total amounts successively transferred do not exceed 20% of the amount allocated to the beneficiary in the table setting out the indicative breakdown of estimated *eligible costs*.

Any other properly substantiated transfer approved by all the *contractors* directly concerned shall require prior written approval by the Commission.

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

Each *contractor* shall be authorised to transfer the budget in the table setting out the indicative breakdown of estimated *eligible costs* between categories of costs, in compliance with subparagraphs 1 and 2. However, he shall not be required to obtain the agreement of the other *contractors*.

Article 19 - Travel and subsistence costs

Actual travel and related subsistence costs shall be established on the basis of the usual rules of the *contractors* and may be charged to the contract for the following categories:

- For *users* when travelling to visit the *infrastructure*. The travel and subsistence costs of such *users* shall also be reimbursed when they attend user meetings.
- For members of the *panel* when travelling in connection with their duties as panel members.

- For representatives of the *contractors* or of the *users* when travelling to attend round-table or similar meetings at the request of the specific programme management.

The prior approval of the Commission shall be required for any travel outside the territory of the Member States and the *Associated States*, unless it is provided for in Annex I to this contract.

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

Article 20 - Additional costs of providing access to the *infrastructure*

1. Direct costs

(a) Personnel

-Personnel costs shall be limited to the actual costs of scientific postgraduate personnel who are wholly or principally assigned to the *project* (gross remuneration and related charges), where they have concluded temporary contracts of employment commencing normally after the *project commencement date* for periods not normally exceeding the *duration of the project* (the costs of permanent personnel paid for working full-time for the *contractor* are excluded).

-Only the costs corresponding to the actual hours worked by such personnel in direct support of the *user groups* given access to the *infrastructure* under this contract may be charged. All the working time charged to the contract must be recorded throughout the *duration of the project* and certified at least monthly by the *coordinator*.

(b) *Subcontracting*

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

- they are incurred in compliance with the conditions set out in Article 7 of this Annex,
- the *subcontracts* are awarded and concluded in accordance with the usual procedures of the *contractor*,
- they are in accordance with market prices, and
- the copies, certified by the *contractors*, of relevant invoices are attached to the corresponding cost statements.

(c) Consumables (including utilities):

- (i) The actual costs related to consumables, including the purchase and fabrication of any materials, goods or equipment and software licences, that are specifically acquired for the *project*, may be charged to the contract on condition that they:

-have been used wholly and exclusively to support the *user groups* who are given access to the *infrastructure* under this contract;

- do not have a life expectancy greater than the *duration of the project*;
- are not recorded in the inventory of durable equipment of the *contractors*; and
- are not treated as capital expenditure in accordance with normal accounting conventions and principles applicable to the *contractors*.

(ii) The costs of the supply of utilities (electricity, liquids, gases, etc) may be charged as direct costs on the basis of recorded metered usage, where the usage has been wholly and exclusively to support the *user groups* who are given access to the *infrastructure* under this contract.

(d) Computing

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

(e) Other specific costs

Other specific actual costs shall not come into any of the categories of *eligible costs* indicated in paragraphs 1(a)(b)(c)(d) and 2 of this Article. They may include, in particular, the costs of the publication of information and results related to the *project* and the costs of introductory training courses for new *users*.

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

The approval of the Commission shall be deemed to be given in the absence of observations within one month of receipt of the request made by the *contractors*.

2. Overheads

The *contractors* may charge to this contract a maximum lump sum of 20% of the direct costs under Articles 19 and 20(1) of this Annex, excluding the costs of subcontracting, in respect of indirect costs.

PART D: AUDITING

Article 21 - Financial audit

1. The Commission, or any representative authorised by it, may initiate an audit at any time during the contract up to five years after each payment of the Community contribution as referred to in Article 5(1) first subparagraph of this Annex.

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

It shall be carried out on a confidential basis.

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

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

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

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

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

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

Article 22 - Technical verification of the project

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

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

It shall be carried out on a confidential basis.

2. The Commission or any authorised representative may have access to the locations and premises where the work is being carried out, and to any document concerning the work, and may request the submission of documents under identical conditions to those set out in Article 21(2) of this Annex.

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

3. The *contractors* shall provide appropriate assistance to the Commission or its authorised representatives.
 4. A technological audit report shall be sent to the *contractors*. The latter may communicate their observations to the Commission within a month of receiving it. The Commission may decide not to take into account observations conveyed after the deadline.
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