

Part B - Terms and Conditions Specific to Vendors

1. The Vendor will take part in a KIC added value activity¹ as per Annex 1 of the applicable Grant Agreement(s) (“GA”) agreed between The European Institute of Innovation and Technology (“EIT”), Climate-KIC and others. Such GA is agreed under the framework of the EIT KIC Partnership Agreement (“PA”) between EIT and Climate-KIC.
2. No contract of employment, nor services contract, nor subcontract for work is concluded between the Vendor and Climate-KIC.
3. The Vendor acknowledges and agrees to the following obligations as if it were a Grant Beneficiary and party to the GA:

ARTICLE 12 - CONFLICTS OF INTEREST

12.1 Conflict of Interests

The beneficiaries must take all measures to prevent any situation where the impartial and objective implementation of the Agreement could be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect interest (‘conflict of interests’).

They must formally notify the granting authority without delay of any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

The EIT may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

12.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28) and the grant or the beneficiary may be terminated (see Article 32).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 13 - CONFIDENTIALITY AND SECURITY

13.1 Sensitive information

The parties must keep confidential any data, documents or other material (in any form) that is identified as sensitive in writing (‘sensitive information’) — during the implementation of the action and for at least until the time-limit set out in the Data Sheet (see Point 6).

If a beneficiary requests, the EIT may agree to keep such information confidential for a longer period.

Unless otherwise agreed between the parties, they may use

sensitive information only to implement the Agreement.

The beneficiaries may disclose sensitive information to their personnel or other participants involved in the action only if they:

- (a) need to know it in order to implement the Agreement and
- (b) are bound by an obligation of confidentiality.

The EIT may disclose sensitive information to its staff and to other EU institutions and bodies.

It may moreover disclose sensitive information to third parties, if:

- (a) this is necessary to implement the Agreement or safeguard the EU financial interests and
- (b) the recipients of the information are bound by an obligation of confidentiality.

The confidentiality obligations no longer apply if:

- (a) the disclosing party agrees to release the other party
- (b) the information becomes publicly available, without breaching any confidentiality obligation
- (c) the disclosure of the sensitive information is required by EU, international or national law.

Specific confidentiality rules (if any) are set out in Annex 5.

13.2 Classified information

The parties must handle classified information in accordance with the applicable EU, international or national law on classified information (in particular, Decision 2015/444² and its implementing rules).

Deliverables which contain classified information must be submitted according to special procedures agreed with the granting authority.

Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the EIT. Classified information may not be disclosed to any third party (including participants involved in the action implementation) without prior explicit written approval from the EIT.

Specific security rules (if any) are set out in Annex 5.

13.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 14 — ETHICS AND VALUES

14.1 Ethics

The action must be carried out in line with the highest ethical

¹ KIC Added Value Activity – a term specified by EIT in accordance with Article 2(11) of the Consolidated EIT Regulations

² Commission Decision 2015/444/EC, Euratom of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

standards and the applicable EU, international and national law on ethical principles.

Specific ethics rules (if any) are set out in Annex 5.

14.2 Values

The beneficiaries must commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities).

Specific rules on values (if any) are set out in Annex 5

14.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 15 — DATA PROTECTION

15.1 Data processing by the EIT

Any personal data under the Agreement will be processed under the responsibility of the data controller of the granting authority in accordance with and for the purposes set out in the Portal Privacy Statement.

15.2 Data processing by the beneficiaries

The beneficiaries must process personal data under the Agreement in compliance with the applicable EU, international and national law on data protection (in particular, Regulation 2016/679³).

They must ensure that personal data is:

- processed lawfully, fairly and in a transparent manner in relation to the data subjects
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed and
- processed in a manner that ensures appropriate security of the data.

The beneficiaries may grant their personnel access to personal data only if it is strictly necessary for implementing, managing and monitoring the Agreement. The beneficiaries must ensure that the personnel is under a confidentiality obligation.

The beneficiaries must inform the persons whose data are transferred to the EIT and provide them with the Portal Privacy

Statement.

15.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5

ARTICLE 17 — COMMUNICATION, DISSEMINATION AND VISIBILITY

17.1 Communication — Dissemination — Promoting the action

Unless otherwise agreed with the EIT, the beneficiaries must promote the action and its results by providing targeted information to multiple audiences (including the media and the public), in accordance with Annex 1 and in a strategic, coherent and effective manner.

Before engaging in a communication or dissemination activity expected to have a major media impact, the beneficiaries must inform the EIT.

17.2 Visibility — European flag and funding statement

Unless otherwise agreed with the granting authority, communication activities of the beneficiaries related to the action (including media relations, conferences, seminars, information material, such as brochures, leaflets, posters, presentations, etc., in electronic form, via traditional or social media, etc.), dissemination activities and any infrastructure, equipment, vehicles, supplies or major result funded by the grant must acknowledge EU support and display the European flag (emblem) and funding statement (translated into local languages, where appropriate).

The emblem must remain distinct and separate and cannot be modified by adding other visual marks, brands or text.

Apart from the emblem, no other visual identity or logo may be used to highlight the EU support.

When displayed in association with other logos (e.g. of beneficiaries or sponsors), the emblem must be displayed at least as prominently and visibly as the other logos.

For the purposes of their obligations under this Article, the beneficiaries may use the emblem without first obtaining approval from the granting authority. This does not, however, give them the right to exclusive use. Moreover, they may not appropriate the emblem or any similar trademark or logo, either by registration or by any other means.

17.3 Quality of information — Disclaimer

Any communication or dissemination activity related to the action must use factually accurate information.

Moreover, it must indicate the following disclaimer (translated into local languages where appropriate):

“Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or [name of the granting authority].

³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free

movement of such data, and repealing Directive 95/46/EC ('GDPR') (OJ L 119, 4.5.2016, p. 1)

Neither the European Union nor the granting authority can be held responsible for them.”

17.4 Specific communication, dissemination and visibility rules

Specific communication, dissemination and visibility rules (if any) are set out in Annex 5.

17.5 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 18 — SPECIFIC RULES FOR CARRYING OUT THE ACTION

18.1 Specific rules for carrying out the action

Specific rules for implementing the action (if any) are set out in Annex 5.

18.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such a breach may also lead to other measures described in Chapter 5.

ARTICLE 19 — GENERAL INFORMATION OBLIGATIONS

19.1 Information requests

The beneficiaries must provide — during the action or afterwards and in accordance with Article 7 — any information requested in order to verify eligibility of the costs or contributions declared, proper implementation of the action and compliance with the other obligations under the Agreement.

The information provided must be accurate, precise and complete and in the format requested, including electronic format.

19.2 Participant Register data updates

The beneficiaries must keep — at all times, during the action or afterwards — their information stored in the Portal Participant Register up to date, in particular, their name, address, legal representatives, legal form and organisation type.

19.3 Information about events and circumstances which impact the action

The beneficiaries must immediately inform the granting authority (and the other beneficiaries) of any of the following:

(a) events which are likely to affect or delay the implementation of the action or affect the EU’s financial interests, in particular:

(i) changes in their legal, financial, technical, organisational or ownership situation (including changes linked to one of the exclusion grounds listed in the declaration of honour signed before grant signature)

(ii) linked action information: not applicable

(b) circumstances affecting:

(i) the decision to award the grant or

(ii) compliance with requirements under the Agreement.

19.4 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 20 — RECORD-KEEPING

20.1 Keeping records and supporting documents

The beneficiaries must — at least until the time-limit set out in the Data Sheet (see Point 6) — keep records and other supporting documents to prove the proper implementation of the action in line with the accepted standards in the respective field (if any).

In addition, the beneficiaries must — for the same period — keep the following to justify the amounts declared:

(a) for actual costs: adequate records and supporting documents to prove the costs declared (such as contracts, subcontracts, invoices and accounting records); in addition, the beneficiaries’ usual accounting and internal control procedures must enable direct reconciliation between the amounts declared, the amounts recorded in their accounts and the amounts stated in the supporting documents

(b) for flat-rate costs and contributions (if any): adequate records and supporting documents to prove the eligibility of the costs or contributions to which the flat-rate is applied

(c) for the following simplified costs and contributions: the beneficiaries do not need to keep specific records on the actual costs incurred, but must keep:

(i) for unit costs and contributions (if any): adequate records and supporting documents to prove the number of units declared

(ii) for lump sum costs and contributions (if any): adequate records and supporting documents to prove proper implementation of the work as described in Annex 1

(iii) for financing not linked to costs (if any): adequate records and supporting documents to prove the achievement of the results or the fulfilment of the conditions as described in Annex 1

(d) for unit, flat-rate and lump sum costs and contributions according to usual cost accounting practices (if any): the beneficiaries must keep any adequate records and supporting documents to prove that their cost accounting practices have been applied in a consistent manner, based on objective criteria, regardless of the source of funding, and that they comply with the eligibility conditions set out in Articles 6.1 and 6.2.

Moreover, the following is needed for specific budget categories:

(e) for personnel costs: time worked for the beneficiary under the action must be supported by declarations signed monthly by the person and their supervisor, unless another reliable time-record system is in place; the granting authority may accept alternative evidence supporting the time worked for the action declared, if it considers that it offers an adequate level of assurance

(f) additional record-keeping rules: not applicable.

The records and supporting documents must be made available upon request (see Article 19) or in the context of checks, reviews, audits or investigations (see Article 25).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under the Agreement (including the extension of findings; see Article 25), the beneficiaries must keep these records and other supporting documentation until the end of these procedures.

The beneficiaries must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. The EIT may accept non-original documents if they offer a comparable level of assurance.

20.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 25 - CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS - EXTENSION OF FINDINGS

25.1 EIT checks, reviews and audits

25.5.1 Internal checks

The EIT may — during the action or afterwards — check the proper implementation of the action and compliance with the obligations under the Agreement, including assessing costs and contributions, deliverables and reports.

25.1.2 Project reviews

The EIT may carry out reviews on the proper implementation of the action and compliance with the obligations under the Agreement (general project reviews or specific issues reviews).

Such project reviews may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6 of the relevant GA). They will be formally notified to the coordinator or beneficiary concerned and will be considered to start on the date of the notification.

If needed, the EIT may be assisted by independent, outside experts. If it uses outside experts, the coordinator or beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.

The coordinator or beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources). The EIT may request beneficiaries to provide such information to it directly. Sensitive information and documents will be treated in accordance with Article 13.

The coordinator or beneficiary concerned may be requested to participate in meetings, including with the outside experts.

For on-the-spot visits, the beneficiary concerned must allow access to sites and premises (including to the outside experts) and must ensure that information requested is readily available. Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the review findings, a project review report will be drawn up. The EIT will formally notify the project review report to the coordinator or beneficiary concerned, which has 30 days from receiving notification to make observations. Project reviews (including project review reports) will be in the language of the Agreement.

25.1.3 Audits

The EIT may carry out audits on the proper implementation of the action and compliance with the obligations under the Agreement.

Such audits may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the beneficiary concerned and will be considered to start on the date of the notification.

The EIT may use its own audit service, delegate audits to a centralised service or use external audit firms. If it uses an external firm, the beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.

The beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Agreement. Sensitive information and documents will be treated in accordance with Article 13.

For on-the-spot visits, the beneficiary concerned must allow access to sites and premises (including for the external audit firm) and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the audit findings, a draft audit report will be drawn up.

The auditors will formally notify the draft audit report to the beneficiary concerned, which has 30 days from receiving notification to make observations (contradictory audit procedure).

The final audit report will take into account observations by the beneficiary concerned and will be formally notified to them.

Audits (including audit reports) will be in the language of the Agreement.

25.2 European Commission checks, reviews and audits in grants of other granting authorities

Where the granting authority is not the European Commission, the latter has the same rights of checks, reviews and audits as the granting authority.

25.3 Access to records for assessing simplified forms of funding

The beneficiaries must give the European Commission access to their statutory records for the periodic assessment of simplified forms of funding which are used in EU programmes.

25.4 OLAF, EPPO and ECA audits and investigations

The following bodies may also carry out checks, reviews, audits and investigations — during the action or afterwards:

- the European Anti-Fraud Office (OLAF) under Regulations No 883/2013⁴ and No 2185/96⁵
- the European Public Prosecutor's Office (EPPO) under Regulation 2017/1939
- the European Court of Auditors (ECA) under Article 287 of the Treaty on the Functioning of the EU (TFEU) and Article 257 of EU Financial Regulation 2018/1046.

If requested by these bodies, the beneficiary concerned must provide full, accurate and complete information in the format requested (including complete accounts, individual salary statements or other personal data, including in electronic format) and allow access to sites and premises for on-the-spot visits or inspections — as provided for under these Regulations.

To this end, the beneficiary concerned must keep all relevant information relating to the action, at least until the time-limit set out in the Data Sheet (Point 6) and, in any case, until any ongoing checks, reviews, audits, investigations, litigation or other pursuits of claims have been concluded.

25.5 Consequences of checks, reviews, audits and investigations — Extension of results of reviews, audits or investigations

25.5.1 Consequences of checks, reviews, audits and investigations in this grant

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to rejections (see Article 27), grant reduction (see Article 28) or other measures described in Chapter 5.

Rejections or grant reductions after the final payment will lead to a revised final grant amount (see Article 22).

Findings in checks, reviews, audits or investigations during the action implementation may lead to a request for amendment (see Article 39), to change the description of the action set out in Annex 1.

Checks, reviews, audits or investigations that find systemic or recurrent errors, irregularities, fraud or breach of obligations in any EU grant may also lead to consequences in other EU

grants awarded under similar conditions ('extension to other grants'). Moreover, findings arising from an OLAF or EPPO investigation may lead to criminal prosecution under national law.

25.5.2 Extension from other grants

Results of checks, reviews, audits or investigations in other grants may be extended to this grant, if:

(a) the beneficiary concerned is found, in other EU grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant and

(b) those findings are formally notified to the beneficiary concerned — together with the list of grants affected by the findings — within the time-limit for audits set out in the Data Sheet (see Point 6).

The granting authority will formally notify the beneficiary concerned of the intention to extend the findings and the list of grants affected.

If the extension concerns rejections of costs or contributions: the notification will include:

(a) an invitation to submit observations on the list of grants affected by the findings

(b) the request to submit revised financial statements for all grants affected

(c) the correction rate for extrapolation, established on the basis of the systemic or recurrent errors, to calculate the amounts to be rejected, if the beneficiary concerned:

(i) considers that the submission of revised financial statements is not possible or practicable or

(ii) does not submit revised financial statements.

If the extension concerns grant reductions: the notification will include:

(a) an invitation to submit observations on the list of grants affected by the findings and

(b) the correction rate for extrapolation, established on the basis of the systemic or recurrent errors and the principle of proportionality.

The beneficiary concerned has 60 days from receiving notification to submit observations, revised financial statements or to propose a duly substantiated alternative correction method/rate.

On the basis of this, the granting authority will analyse the impact and decide on the implementation (i.e. start rejection or grant reduction procedures, either on the basis of the revised financial statements or the announced/alternative method/rate or a mix of those; see Articles 27 and 28).

⁴ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

⁵ Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

25.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

ARTICLE 26 - IMPACT EVALUATIONS

26.1 Impact evaluation

The granting authority may carry out impact evaluations of the action, measured against the objectives and indicators of the EU programme funding the grant.

Such evaluations may be started during implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the coordinator or beneficiaries and will be considered to start on the date of the notification.

If needed, the granting authority may be assisted by independent outside experts.

The coordinator or beneficiaries must provide any information relevant to evaluate the impact of the action, including information in electronic format.

26.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the granting authority may apply the measures described in Chapter 5.

ARTICLE 33 — DAMAGES

33.1 Liability of the granting authority

The EIT cannot be held liable for any damage caused to the beneficiaries or to third parties as a consequence of the implementation of the Agreement, including for gross negligence.

The EIT cannot be held liable for any damage caused by any of the beneficiaries or other participants involved in the action, as a consequence of the implementation of the Agreement.

33.2 Liability of the beneficiaries

The beneficiaries must compensate the EIT for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement, provided that it was caused by gross negligence or wilful act.

The liability does not extend to indirect or consequential losses or similar damage (such as loss of profit, loss of revenue or loss of contracts), provided such damage was not caused by wilful act or by a breach of confidentiality.