



Bu proje Avrupa Birliği ve Türkiye Cumhuriyeti
tarafından finanse edilmektedir
This project is co-funded by the European Union
and the Republic of Türkiye



Technical Assistance for Turkey in Horizon 2020 Phase-II
EuropeAid/139098/IH/SER/TR

Turkey in Horizon 2020 Phase II

Legal and Financial & IPR Training, 15-16/9/2022

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HORIZON Europe Legal Documents



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Structure

1. **Non-disclosure agreement (NDA)**
2. **Memorandum of Understanding (MoU)**
3. **Consortium Agreement (CA)**
4. **Grant Agreement (GA)**



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1. Memorandum of Understanding

- **Framework of negotiations** among partners of consortium
- **Concluded in the beginning** of the negotiations on the involvement in a project (before submitting a proposal)
- Will for intended common line of action
- **Explains:**
 - protocols for communication, information exchange,
 - confidentiality issues
 - modifications and conditions for terminating the agreement.



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2. Non-Disclosure Agreement

- **Confidentiality** in R&D projects, from the setting-up (even during earliest discussions), to implementation and exploitation phases.
- A **non-disclosure agreement** is a **legally binding contract** that establishes a confidential relationship. The party or parties signing the agreement agree that sensitive information they may obtain will not be made available to any others.
- May also be referred to as **confidentiality agreement**.



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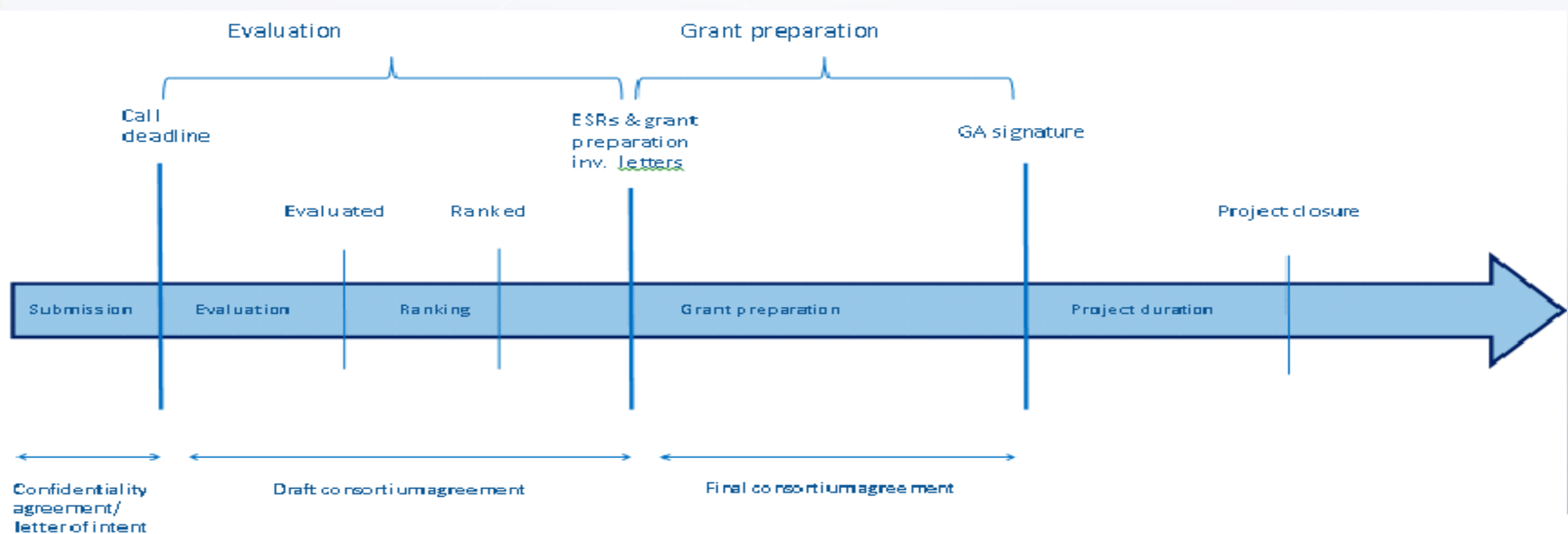
NDA – MoU general comments

- **Negotiation:**
 - **Coordinator:** may wish to limit partners from participating in other proposals
 - **Partner:** avoids commitment on non-participation in other proposals
- **Check** that the proposed text does not impose excessive limitations beyond the scope of the specific proposal:
 - Concerning duration
 - Concerning prohibitions
 - Concerning possible access to your background/ IP



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3. Consortium Agreement





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What is a Consortium Agreement ?

- **Internal** agreement between the members of the consortium
- COM is **not** a party, has no control or responsibilities
- An additional document to the Grant Agreement (GA)
- The GA does not contain provisions for all situations of a consortium
- Must **not** be contradictory to the GA



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- Beneficiaries must conclude a consortium agreement according to GA art. 7
- **Unless**: exceptionally stipulated otherwise in the respective work programme
- In principle **before** the start of the action
- **Preparation** costs of CA are not eligible for funding, but any costs incurred in **revising** the CA during the project period can be eligible.



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Why is it important?

GA Article 7:

The beneficiaries must have **internal arrangements** regarding their operation and co-ordination, to ensure that the action is implemented properly.

If required by the granting authority (see Data Sheet, Point 1), these arrangements must be set out in a written **consortium agreement** between the beneficiaries, covering for instance:

- the internal organisation of the consortium
- the management of access to the Portal
- different distribution keys for the payments and financial responsibilities in case of recoveries (if any)
- additional rules on rights and obligations related to background and results (see Article 16)
- settlement of internal disputes
- liability, indemnification and confidentiality arrangements between the beneficiaries.

The internal arrangements must not contain any provision contrary to this Agreement.



- **General provisions:** definitions, entry into force, duration, applicable law etc.
- **Obligations of partners:** compliance with deadlines for deliverables and reports, information obligations, participation in meetings etc. and consequences of non-compliance
- **Internal organisation and decision-making:** composition and duties of bodies (corresponding to the size of the consortium), meetings, voting rules etc.
- **Financial provisions:** allocation of funding and transfer to the partners (e.g. payment of pre-financing in instalments), handling of receipts and financial losses etc.
- **Provisions on the handling of intellectual property rights:** handling of intellectual property rights, access rights and project results
- **Other issues:** liability, non-disclosure, dispute resolution etc.

- Model CAs have not been developed/endorsed by European Commission
- Can be a good model to start negotiations for final consortium agreements; for example DESCAs
- DESCAs are only a model – Consortium can adapt it to the needs of your project!
- there are also other CA models, e.g. MCARD, but the DESCAs model presented as the most suitable model for universities and research institutes is DESCAs (includes many essential provisions, e.g. on rights, liabilities and publishing)

Important points:

- **Governance structure** should be in line with what is described in the GA (Annex 1, Part A, WP management)
- Check the proposed CA in comparison with the template used (DESCA etc) and identify the **deviations** from the original text
- As **partner**, try to negotiate the **payment scheme** (in case the coordinator intends to make payments in instalments and not as received by the EU)
- As **coordinator**, consider all comments by partners, but pose strict deadlines and do not allow endless discussions

Important points:

- Evaluate provisions concerning “**ownership of results**” and “**access rights**” according to the work, results and background that **your organisation** is bringing to the project
- Check the list of 3rd parties and entities under the same control and make sure **your own interests** are not affected
- “**Background included**” is not aimed to contain all the background we bring to the project – only the one to which access must be provided
- The CA should be signed by the **Legal Signatory** of each partner

4. Grant Agreement

- GA signed by coordinator and by European Commission
 - Other parties sign an Accession form
- GA signed by duly authorized representatives of the parties
- GA sets down terms related to funding between the European Commission and project partners
- The European Commission provides the model GA – non-negotiable
- Grant Agreement (GA) **is** legally binding
- Annotated Grant Agreement (AGA) **is not** legally binding



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Rights

- Receive funding
- Own and exploit results
- Perform changes
- ...



Obligations

- Implement the action
- Submit reports
- Ethics, visibility, ...
- Record keeping (eligibility)
- ...

General Model Grant Agreement



Horizon Europe (HORIZON) Euratom Research and Training Programme (EURATOM)

General Model Grant Agreement EIC Accelerator Contract

(HE MGA — Multi & Mono)

Version 1.0
01 June 2021

Disclaimer
This document is aimed at assisting applicants. It shows the full range of provisions that may be applied to this type of agreement, and is provided for information purposes only. The legally binding agreement will be that which is signed by the parties in the system.



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Unit Grants



Horizon Europe (HORIZON)

Model Grant Agreement

Unit Grants

(HE Unit MGA — Multi & Mono)

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Lump Sum Grants



[insert programme name (acronym)]

Model Grant Agreement

Lump Sum Grants

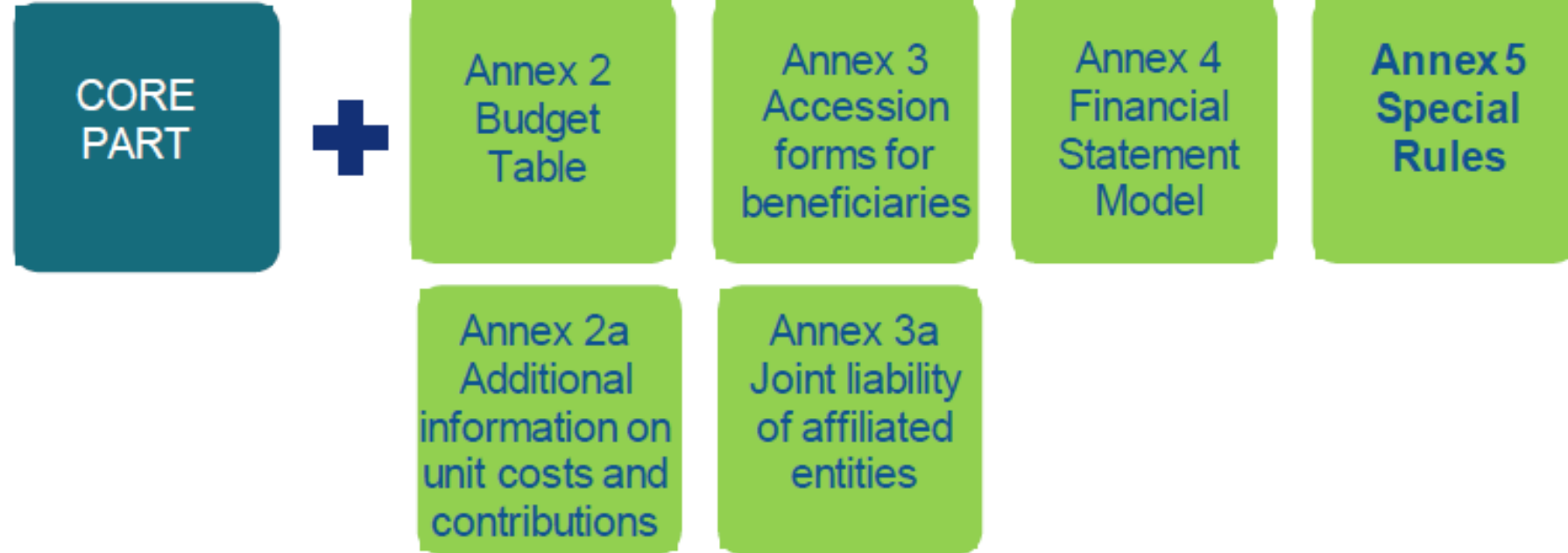
((JUST/REC Lump Sum MGA— Multi & Mono))

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Core Part

Datasheet

a summary of the specific data of the grant agreement

Articles

grouped in six chapters

1. General Data
2. Participants
3. Grant
4. Reporting, payment and recoveries
5. Consequences of non-compliance, applicable law and dispute settlement forum
6. Specific rules Annex 5 & Standard time-limits after project end

Chapter 1 – General (Articles 1-2)

Chapter 2 – Action (Articles 3-4)

Chapter 3 – Grant (Articles 5-6)

Chapter 4 – Grant Implementation (Articles 7-26)

Chapter 5 – Consequences of non-compliance (Articles 27-35)

Chapter 6 – Final provisions (Articles 36-44)

Disclaimer: Information not legally binding



https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/aga_en.pdf



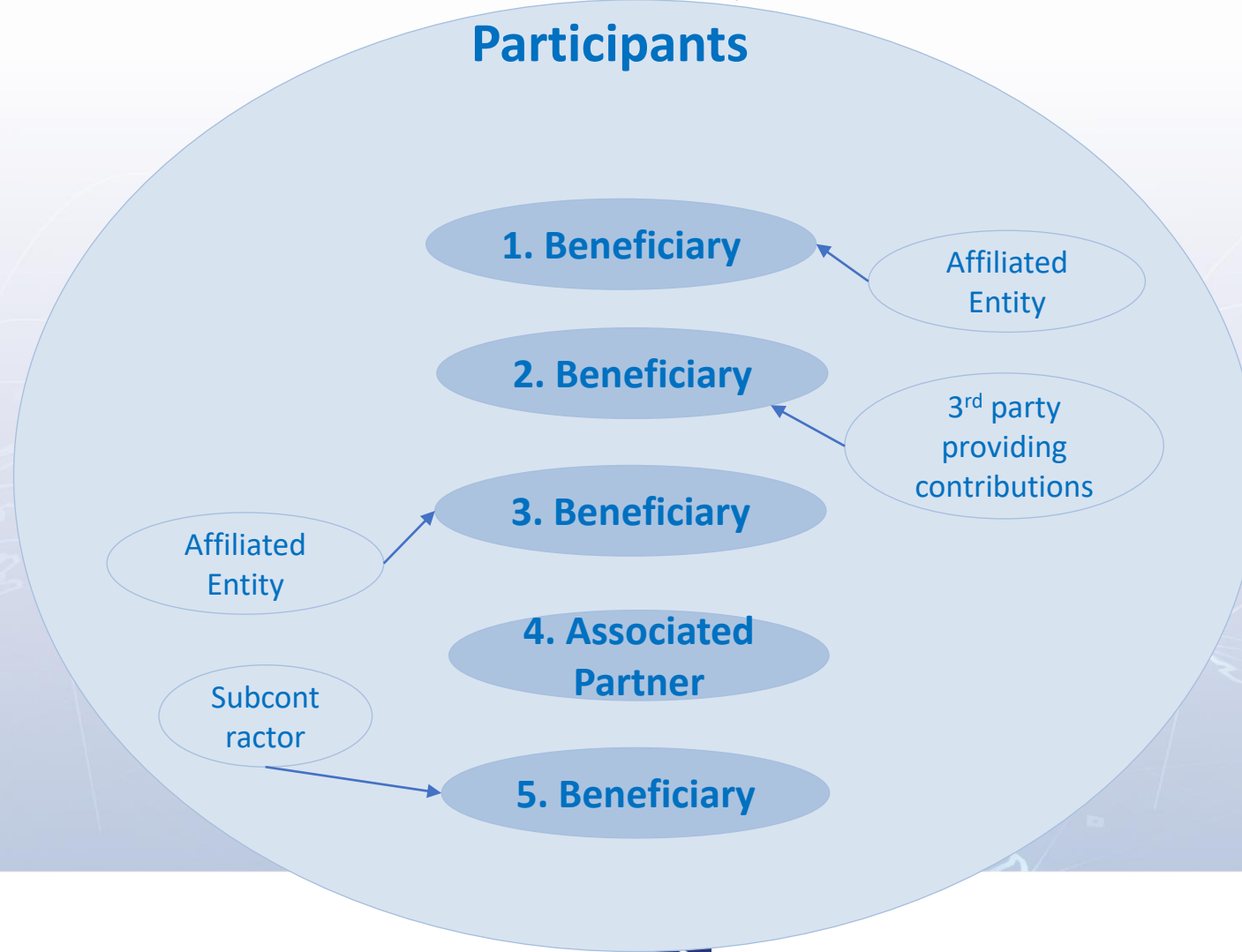
Annex 5
Special
Rules

- **Security** (Article 13)
- **Ethics** (i.e. research integrity) (Article 14)
- **Values** (i.e. gender mainstreaming) (Article 14)
- **IPR** (Article 16)
- **Communication, Dissemination, Open Science and Visibility** (Article 17)
- **Specific rules for carrying out the action** (Article 18)
 - recruitment and working conditions
 - specific rules for access to research infrastructure actions
 - specific rules for PCP and PPI procurements
 - specific rules for co-funded partnerships
 - specific rules for ERC actions
 - specific rules for EIT-KIC actions
 - specific rules for MSCA actions
 - specific rules for EIC actions



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Participants



Grant Agreement is signed only by Beneficiaries and EU

TYPE	Works on 'action tasks'?	What is eligible for the beneficiary/ affiliated entity?	Must be indicated in Annex 1 GA?	Conditions for participation	GA article
Beneficiaries	YES	Costs	YES	Must be eligible	art 7
Affiliated entities	YES	Costs	YES	Must have a capital or legal link with a beneficiary and fulfil the same eligibility conditions	art 8
Associated partners	YES	n/a	YES	No specific conditions (APs do not receive funding).	art 9.1
Third parties contributing to the project	Participate in the action as contributors	n/a (<i>except HE: Costs</i>)	YES		art 9.2
Subcontractors	YES	Invoiced price	NO (only subcontracted tasks must be indicated)		art 9.3
Third parties receiving financial support ²	Participate in the action as recipients.	Amount of support given	YES	According to the conditions in Annex 1 GA	art 9.4

Timeline of Legal Docs

Confidentiality /
NDA

MoU

Draft consortium
agreement

Signed
consortium
agreement

Call for
proposals

Proposal
submission

Evaluation of
results

EC grant
agreement
signed

Management
structure &
decision
making

Exploitation plan, knowledge
management & protection



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Thank you for your attention!

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