



## 2nd BESTPRAC – EARMA

### Some legal topics in Horizon Europe

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## Presentation Outline

- Legislative basis
- Model Grant Agreement – Horizon Europe
- What's new or different?

## Horizon Europe Legal Framework- Background

- [EU Regulation, Council Decision and EU Financial Regulation](#)
  - [Regulation \(EU\) 2021/695](#) establishing Horizon Europe – the Framework Programme for Research and Innovation. Entered into force 12<sup>th</sup> May 2021. Applies retroactively since 1 January 2021.
  - [Council Decision \(EU\) 2021/764](#) establishing the Specific Programme implementing Horizon Europe. Adopted 10 May 2021, Council of the European Union.
  - [Regulation \(EU, Euratom\) 2018/1046 \(financial rules general budget of the Union \)](#)
  - ❖ In all of the above, the ‘objectives’ and the ‘rules’ inform and determine the terms of the grant agreement between the Commission/Union/ EU Executive agencies and the beneficiary(ies) i.e. the Grant Agreement.
  - ❖ New objectives require new terms & conditions.
- Opinion only -Information not legally binding

2nd BESTPRAC – EARMA

virtual two-day meeting

June 14-15, 2021



# Model Grant Agreement EU Funding Programmes 2021-2027

- Where do we find it?  
Funding and Tender Opportunities portal
- <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/reference-documents;programCode=HORIZON>
- Commission-wide model 'Corporate Model Grant Agreement',
- Consistency – common body of rules and terminology across programmes.
- *New-* General MGA (Model grant agreement), HE MGA (**25<sup>th</sup> Feb, EURATOM**), Lump Sum MGA (**1<sup>st</sup> June**), Unit MGA, Operating Grants MGA (**1<sup>st</sup> June**) and Framework Partnership Agreement (**1<sup>st</sup> June**)
- Opinion only -information not legally binding



## Participants in Grant agreement -changes in terminology

- Beneficiary

### Affiliated entity **NEW** (Linked third parties in H2020)

EU Financial Regulation Article 187 Affiliate entities and sole beneficiary. Article 187(1) (a) and (b) of the EU Financial Regulation. Entities considered as affiliated to the beneficiary. Entities that a) form the sole beneficiary b) 'have a link to the beneficiary, *in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation*'.

- **Associated Partner** *take part in the action but without the right to charge costs or claim contributions (but beneficiaries to ensure that some MGA obligations apply e.g. conflict of interests, confidentiality, ethics, record keeping)*
- **Third party providing contributions**
- **Subcontractor**

- Opinion only - Information not legally binding

# Corporate structure of the HE MGA



Core Part

## Datasheet

a summary of the specific data of the grant agreement

## Articles

grouped in six chapters

1. General Data
2. Participant
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 (incl. Security, ethics, values, IPR, Dissemination, and specific rules)

**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)

## What's new/different?

### Horizon 2020, MGA

Article 18.1.2 Records and other documentation to support the costs declared

*(c) for flat-rate costs: adequate records and other supporting documentation to prove the eligibility of the costs to which the flat-rate is applied. **The beneficiaries do not need to identify the costs covered or provide supporting documentation (such as accounting statements) to prove the amount declared at a flat-rate[;][.]***

### Horizon Europe, MGA

Article 20 – Record Keeping and supporting documents

*20.1.(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.”***



- **What's new/different?**

Participants' Guarantee Fund → **“Mutual Insurance Mechanism” (MIM)**

*“Extending the Participants' Guarantee Fund (renamed Mutual Insurance Mechanism) to beneficiaries of any directly managed Union programme, and for actions not covered by the fund under Horizon 2020 (Article 185 Initiatives)”;*

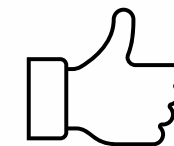
**Data Sheet 4.2**

*Reporting and payment modalities (art 21, 22):*

*“MIM contribution: [5-8%][[...]]% of the maximum grant amount retained from the initial prefinancing [additional OPTION if selected for the call: amount], retained from the second prefinancing][additional OPTION if selected for the call: and [...]]% of the maximum grant amount ([insert amount]), retained from the third prefinancing]”*

**Comment:**

Extension of MIM to other directly managed Union Programmes  
MIM contribution 5%-8%







## What's new/different?

### Sensitive data vs Sensitive Information

#### H2020 MGA

Sensitive data (under GDPR) e.g. *racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health, sexual orientation, etc.*

Opinion only - Information not legally binding

#### Horizon Europe, MGA

#### **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).*

##### **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 2015/444 and its implementing rules).*

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

Opinion only - Information not legally binding



- **What's new/different?**

### Results Ownership List (ROL)

The **ROL** will take the form of a template to be filled out in **the final periodic report** listing the owner of the results.

The joint owners may agree in writing **not to continue** with joint ownership and apply another regime.

*“Third parties (including employees and other personnel) may claim rights to the results, the beneficiary concerned must ensure that those rights can be exercised in a manner compatible with its obligations under the Agreement.”*

**Comment: Beneficiary are responsible for making arrangements with the third-party claimant.**

### **Horizon Results Platform (HRP)**

*Beneficiaries which have received funding under the grant must — up to four years after the end of the action— use their best efforts to exploit their results directly or to have them exploited indirectly by another entity, in particular through transfer or licensing.*



# GA declarations that need to be reviewed when available

- Declaration on joint and several liability of affiliated entities – Annex 3a GA

(Coming soon)

- Declaration of honour (DoH) affiliated entities (Coming soon)

- Accession form -Annex 3 GA (Coming soon)

- Information not legally binding



## Sources/Acknowledgements

- European Sources online  
<https://www.europeansources.info/>
- 'How to prepare a successful proposal for Horizon Europe'. Horizon Europe MGA Team - Common Legal Support Centre, DG R&I, European Commission, Presentation 24 March 2021

Thank you for your attention, Miriam.

- Information not legally binding