

**Terms of Reference for an Independent Report of Factual Findings on costs declared under a Grant Agreement financed under the Connecting Europe Facility (CEF)**  
**Terms of Reference number: CEF/1131671/2022**

This document sets out the ‘**Terms of Reference (ToR)**’ under which

**Železnice Slovenskej republiky**, Klemensova 8, 813 61 Bratislava, Slovenská republika, Registration number: 31 364 501, represented by Director General, Ing. Miloslav Havrila (‘the Beneficiary’) agrees to engage

PricewaterhouseCoopers Slovensko, s.r.o., Karadžičova 2, 815 32 Bratislava, Slovenská republika, Registration number: 35 739 347, represented by Partner authorized by the Executive, Ing. Štefan Čupil (‘the Auditor’)

to produce an independent report of factual findings (‘the Report’) concerning the Financial Statement(s)<sup>1</sup> drawn up by the Beneficiary for the CEF grant agreement INEA/CEF/TRAN/M2015/1131671, **Modernisation of two sections of the CZ/SK state border - Devínska Nová Ves railway line**, 2015-SK-TM-0207-M, duration from 17/02/2016 to 31/12/2022 (‘the Agreement’), and to issue a Certificate on the Financial Statements (‘CFS’) referred to in Article II.23.2 of the Agreement based on the compulsory reporting template stipulated by the Commission.

The Agreement has been concluded under the Connecting Europe Facility (CEF) Transport sector between the Beneficiary and the Innovation and Networks Executive Agency (INEA) from 01/04/2021 the European Climate, Infrastructure and Environment Executive Agency (CINEA) (‘the Agency’), under the powers delegated by the European Commission (‘the Commission’).

The Agency is mentioned as a signatory of the Agreement with the Beneficiary only. The Agency is not a party to this engagement.

## **1.1 Subject of the engagement**

The Beneficiary must submit to the Agency the request for interim payment within 8 months following the end of the reporting period which should include, amongst other documents, a CFS for each beneficiary, each Affiliated Entity and Implementing Body, for which a total contribution of EUR 325 000 or more is requested, as reimbursement of actual eligible costs and unit costs calculated on the basis of its usual cost accounting practices (see Article II.23.2 of the Agreement). The CFS must cover all reporting periods of the beneficiary, Affiliated Entity or Implementing Body indicated above.

The Beneficiary must submit to the Agency the CFS covering the total declared costs for itself, its Affiliated Entity(ies) and its Implementing Body(ies), if the CFS must be included in the request for interim payment according to Article II.23.2 of the Agreement.

The CFS is composed of two separate documents:

- The Terms of Reference (‘the ToR’) to be signed by the Beneficiary and the Auditor;
- The Auditor’s Independent Report of Factual Findings (‘the Report’) to be issued on the Auditor’s letterhead, dated, stamped and signed by the Auditor (or the competent public officer) which includes the agreed-upon procedures (‘the Procedures’) to be performed by the Auditor, and the standard factual findings (‘the Findings’) to be confirmed by the Auditor.

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<sup>1</sup> By which costs under the Agreement are declared (see template ‘Model Financial Statement(s)’ in Annex VI to the Grant Agreement).

If the CFS must be included in the interim report according to Article II.23.2 of the Agreement, the request for interim payment relating to the Agreement cannot be made without the CFS. However, the payment for reimbursement of costs covered by the CFS does not preclude the Commission, the Agency, the European Anti-Fraud Office and the European Court of Auditors from carrying out checks, reviews, audits and investigations in accordance with Article II.27 of the Agreement.

## 1.2 Responsibilities

The Beneficiary:

- must draw up the Financial Statement(s) for the action financed by the Agreement in compliance with the obligations under the Agreement. The Financial Statement(s) must be drawn up according to the Beneficiary's accounting and book-keeping system and the underlying accounts and records;
- must send the Financial Statement(s) to the Auditor;
- is responsible and liable for the accuracy of the Financial Statement(s);
- is responsible for the completeness and accuracy of the information provided to enable the Auditor to carry out the Procedures. It must provide the Auditor with a written representation letter supporting these statements. The written representation letter must state the period covered by the statements and must be dated;
- accepts that the Auditor cannot carry out the Procedures unless it is given full access to the Beneficiary's staff and accounting as well as any other relevant records and documentation.

The Auditor:

- is qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC or similar national regulations.

The Auditor:

- must be independent from the Beneficiary, in particular, it must not have been involved in preparing the Beneficiary's Financial Statement(s) or providing consultancy advice on the related operations and underlying transactions;
- must plan work so that the Procedures may be carried out and the Findings may be assessed;
- must adhere to the Procedures laid down and the compulsory report format;
- must carry out the engagement in accordance with this ToR;
- must document matters which are important to support the Report;
- must base its Report on the evidence gathered;
- must submit the Report to the Beneficiary.

The Agency sets out the Procedures to be carried out by the Auditor. The Auditor is not responsible for their suitability or pertinence. As this engagement is not an assurance engagement, the Auditor does not provide an audit opinion or a statement of assurance.

## 1.3 Applicable Standards

The Auditor must comply with these Terms of Reference and with<sup>2</sup>:

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<sup>2</sup> Supreme Audit Institutions applying INTOSAI-standards may carry out the Procedures according to the corresponding International Standards of Supreme Audit Institutions and code of ethics issued by INTOSAI instead of the International Standard on Related Services ('ISRS') 4400 and the Code of Ethics for Professional Accountants issued by the IAASB and the IESBA.

- the International Standard on Related Services ('ISRS') 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as issued by the International Auditing and Assurance Standards Board (IAASB);
- the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA). Although ISRS 4400 states that independence is not a requirement for engagements to carry out agreed-upon procedures, the Agency requires that the Auditor also complies with the Code's independence requirements.

The Auditor's Report must state that there is no conflict of interests in establishing this Report between the Auditor and the Beneficiary and must specify - if the service is invoiced - the total fee paid to the Auditor for providing the Report.

## **1.4 Reporting**

The Report must be written in English in accordance with Article 4.3 of the Agreement.

Under Article II.27 of the Agreement, the Commission, the Agency, the European Anti-Fraud Office and the Court of Auditors have the right to audit any work that is carried out under the action and for which costs are declared from the European Union budget. This includes work related to this engagement. The Auditor must provide access to all working papers (e.g. recalculation of hourly rates, verification of the time declared for the action) related to this assignment if the Commission, the Agency, the European Anti-Fraud Office or the European Court of Auditors requests them.

## **1.5 Timing**

The Report must be provided within 50 days from the date on which ToR shall take effect. The Report must be delivered to the Beneficiary as follows:

- Report in paper form: 3 signed and stamped originals must be delivered with cover letter to the following address: Železnice Slovenskej republiky, Odbor investorský, Klemensova 8, 813 61 Bratislava, Slovenská republika
- Report in electronic form: (i) in format \*.pdf (scan of signed and stamped original) and (ii) in open format \*.doc/\*.docx, annexes in open format \*.xls/\*.xlsx must be delivered to the following email address: [gro220@zsr.sk](mailto:gro220@zsr.sk)

Before the submission of the Report, draft report must be provided within 30 days from the date on which ToR shall take effect. Draft report (including annexes) must be delivered to the Beneficiary in electronic form: (i) in format \*.pdf and (ii) in open format \*.doc/\*.docx, annexes in open format \*.xls/\*.xlsx to the following email address: [gro220@zsr.sk](mailto:gro220@zsr.sk).

## **1.6 Other terms**

### 1.6.1 Declared costs

All declared costs to be included in the request for interim payment, were incurred within the period from 17/02/2016 to 31/12/2021. Personal costs are not included in declared costs of the Beneficiary's Financial Statement(s).

### 1.6.2 Contract price

The contract price is 9 000,00 EUR excl. VAT.

### 1.6.3 Payment arrangements

Upon submission of the Report in accordance with the ToR, the Auditor is entitled to issue the invoice. The invoice shall include grant agreement number, title of the action, Terms of Reference number, due date of the invoice in accordance with this Article, stamp, name and signature of authorised

representative and other particulars according to Act No. 513/1991 Coll. Commercial Code and Act No. 222/2004 Coll. on VAT. The invoice shall be issued in 4 signed originals and sent with cover letter to the following address:

Železnice Slovenskej republiky  
Odbor investorský  
Klemensova 8  
813 61 Bratislava  
Slovenská republika

Within 60 days from the receipt of the invoice, the Beneficiary shall make the payment of the contract price to the Auditor. Payment shall be made to the following bank account:

Account holder: PricewaterhouseCoopers Slovensko, s.r.o.  
Bank name:  
Branch address:  
IBAN:  
SWIFT:

In case of late payment, the Auditor may claim late-payment interest according to Act No. 513/1991 Coll. Commercial Code. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive), and the date on which the Beneficiary's account is debited (inclusive).

In case the submitted Report or the invoice is not in accordance with the ToR, the Beneficiary is entitled to return the invoice to the Auditor. The Auditor must submit new invoice to the Beneficiary. The new payment deadline of 60 days shall commence from the date on which the new invoice is submitted.

The Auditor is obliged to ensure that the bank account specified in the ToR is a bank account according to § 6 of the Act No. 222/2004 Coll. on VAT. If the bank account specified in the ToR is not a bank account according to § 6 of the Act No. 222/2004 Coll. on VAT, the Beneficiary is entitled to make payment of the invoice to other Auditor's bank account, which is a bank account according to § 6 of the Act No. 222/2004 Coll. on VAT. If the Auditor does not have any bank account according to § 6 of the Act No. 222/2004 Coll. on VAT, the Beneficiary is not obliged to make payment of the invoice earlier than the fifth working day after delivery of the Auditor's written notice that he has a bank account according to § 6 of the Act No. 222/2004 Coll. on VAT, provided that the bank account specified in the written notice is a bank account according to § 6 of the Act No. 222/2004 Coll. on VAT. The Beneficiary will not be in delay with the payment in the case he will follow according to this point. In these cases, it is not necessary to conclude an amendment to the ToR, the subject of which is a change of bank account.

#### 1.6.4 Liability for damages

If the Beneficiary incurs damage to property, rights or other property as a result of the Auditor's breach of the obligations set out in the ToR, the Auditor shall be liable for such damages and is obliged to compensate the Beneficiary for the damages incurred. The form of compensation is monetary compensation for the damage incurred in full.

If the damage is caused by a third party to whom the Auditor has entrusted the performance of his duties, the Auditor shall be liable for the damage.

Liability for damage caused by a breach of obligations in connection with the ToR by any Party is governed by the provisions of Article 373 et seq. of the Act No. 513/1991 Coll. Commercial Code and other relevant legislation on damages actions.

#### 1.6.5 Personal data protection

The Auditor undertakes to process all the provided personal data lawfully, to the extent permitted by applicable law, in particular the 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 ('the GDPR') and Act

No. 18/2018 Coll. on personal data protection and amending and supplementing certain Acts ('the Personal Data Protection Act').

In particular, the Auditor undertakes to collect personal data exclusively for the purpose stated in the ToR, to process personal data only to the necessary extent and for a period of time, to maintain confidentiality of all data provided and to ensure that all persons authorized to process personal data are bound by professional secrecy. At the same time, the Auditor undertakes to ensure that appropriate technical and organizational measures are taken in accordance with the GDPR and the Personal Data Protection Act to prevent misuse, theft, unauthorized disclosure or other unacceptable forms of processing in connection with received documents.

Further information on the processing of personal data and rights is provided in Annex 1.6.5.A DATA PROTECTION

The Auditor is obliged to inform all related entities about the Beneficiary's policy on the 'Principles of Personal Data Protection' made available at <https://www.zsr.sk/ou.html>.

#### 1.6.6 Conditions supplemented by the Auditor

The Parties agree that all special areas not covered by the ToR are governed by the following conditions:

- DISCLOSURE OF INFORMATION, THE REPORT AND THE TERM OF THE ToR specified in Annex 1.6.6.A
- TERMS OF BUSINESS specified in Annex 1.6.6.B

#### 1.6.7 Obligations of the Auditor in relation to the direct subcontractors

1.6.7.1 The Auditor shall be liable to the Beneficiary for any acts, negligence, failure or omissions in the performance of the obligations or necessary actions in a proper and timely manner of the subcontractors at any level, as if they were acts, negligence, failure or omissions in the performance of the obligations or necessary actions in a proper and timely manner of the Auditor himself.

1.6.7.2 The Auditor is entitled to entrust part of the ToR performance only to those subcontractors who are listed in the List of direct subcontractors, that forms Annex 1.6.7.A ('Annex 1.6.7.A' or 'the List') or who will be added to the List in accordance with point 1.6.7.3 or 1.6.7.4. This does not apply in case of a subcontractor who is exclusively the supplier of the goods.

1.6.7.3 The Auditor is entitled to change the subcontractor stated in the List during the ToR performance only with the prior written consent of the Beneficiary. In the Auditor's written request for consent, the Auditor is obliged to include all the data on the subcontractor in the scope stated in the List. The Beneficiary shall notify the Auditor in writing of his decision within 5 days from the date of receipt of the request for consent and in case of non-consent the Beneficiary shall state the reasons for non-consent. If the Beneficiary does not respond within the time limit according to the previous sentence, it means the Beneficiary's consent to the subcontractor.

1.6.7.4 If the Beneficiary finds out that the subcontractor is unable to fulfil its obligations or does not perform the relevant part of ToR performance properly, the Beneficiary may immediately request the Auditor to replace the subcontractor. The Auditor is obliged to comply with the request for replacement in accordance with point 1.6.7.3 no later than 30 days from the date of receipt of the Beneficiary's request or to notify the Beneficiary within this period that he will perform the relevant part of performance himself. The Beneficiary's request to replace the subcontractor under this point does not affect the Auditor's obligation to perform properly and in a timely manner on the basis of the ToR.

1.6.7.5 If there is a change in the subcontractors during the ToR performance, the Auditor is obliged to submit the current List to the Beneficiary within 5 working days from the date of concluding the contract with the new subcontractor (adding the subcontractor to the List) or from the date of termination of the contract with the subcontractor (omission of the subcontractor from the

List without replacement). The current List will be submitted in the scope of data according to Annex 1.6.7.A.

1.6.7.6 The Auditor is obliged to notify the Beneficiary in writing of any change in the data on the subcontractor, no later than within 10 days from when he became aware of the change. The term 'data on the subcontractor' means in particular the data listed in Annex 1.6.7.A, change in the legal form of the subcontractor, change in the share capital of the subcontractor, commencement of bankruptcy proceedings, restructuring proceedings or liquidation of the subcontractor.

#### 1.6.8 Final provisions

The Parties mutually agree that any assignment of claims that arise or are related to the ToR is possible only with the prior written consent of the Party concerned.

This ToR is drawn up in English in five originals, one original being for the Auditor, three originals being for the Beneficiary and one original will be submitted to the Agency as part of the CFS. This ToR shall enter into force on the date on which the last party signs and take effect on the day following that of its publication in the Central register of contracts kept by the Slovak republic Government Office.

Mutual relations of the Parties are governed by the provisions of Act No. 513/1991 Coll. Commercial Code, in the alternative by the provisions of Act No. 40/1964 Coll. Civil Code as amended and other relevant legal regulations of the Slovak Republic.

All possible disputes will be resolved by the parties primarily through conciliation. In the case of disputes that cannot be resolved by agreement of the Parties, one of the Parties will request a decision from the competent court of the Slovak Republic. The Parties have agreed that the ToR and all relations arising from it will be governed by the law of the Slovak Republic.

The Auditor is obliged to comply with the "Code of Ethics of the Železnice Slovenskej republiky" when fulfilling the ToR. The current wording of the "Code of Ethics of the Železnice Slovenskej republiky" is published on the Beneficiary's website.

PricewaterhouseCoopers Slovensko, s.r.o.  
Represented by Ing. Štefan Čupil  
Partner authorized by the Executive  
20 June 2022

**Železnice Slovenskej republiky**  
Represented by Ing. Miloslav Havrila,  
Director General  
07.07.2022

.....  
Stamp and signature of the Auditor

.....  
Stamp and signature of the Beneficiary

## **Independent Report of Factual Findings on costs declared under the Connecting Europe Facility (CEF)**

*(To be printed on the Auditor's letterhead)*

To  
Ing. Miloslav Havrila, Director General  
**Železnice Slovenskej republiky**  
Klemensova 8, 813 61 Bratislava, Slovenská republika  
[dd Month yyyy]

Dear Mr. Miloslav Havrila,

As agreed under the terms of reference dated [dd Month yyyy]

with [insert name of the beneficiary] ('the Beneficiary'),

we

[name of the auditor] ('the Auditor'),

established at

[full address/city/state/province/country],

represented by

[name and function of an authorised representative],

have carried out the procedures agreed with you regarding the costs declared in the Financial Statement(s)<sup>3</sup> of the Beneficiary concerning the grant INEA/CEF/TRAN/M2015/1131671, **Modernisation of two sections of the CZ/SK state border - Devinska Nová Ves railway line, 2015-SK-TM-0207-M** ('the Agreement'),

with a total cost declared of EUR [total amount],

and **hereby provide our Independent Report of Factual Findings ('the Report')** using the compulsory report format agreed with you.

### **The Report**

Our engagement was carried out in accordance with the terms of reference ('the ToR') appended to this Report. The Report includes the agreed-upon procedures ('the Procedures') carried out and the standard factual findings ('the Findings') examined.

The Procedures were carried out solely to assist the Agency in evaluating whether the Beneficiary's costs in the accompanying Financial Statement(s) were declared in accordance with the Agreement. The Agency draws its own conclusions from the Report and any additional information it may require.

The scope of the Procedures was defined by the Agency. Therefore, the Auditor is not responsible for their suitability or pertinence. Since the Procedures carried out constitute neither an audit nor a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, the Auditor does not give a statement of assurance on the Financial Statements.

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<sup>3</sup> By which the Beneficiary declares costs under the Agreement (see template 'Model Financial Statement(s)' in Annex VI to the Agreement).

Had the Auditor carried out additional procedures or an audit of the Beneficiary's Financial Statements in accordance with International Standards on Auditing or International Standards on Review Engagements, other matters might have come to its attention and would have been included in the Report.

### **Not applicable Findings**

We examined the Financial Statement(s) stated above and considered the following Findings not applicable:

*Explanation (to be removed from the Report):*

*If a Finding was not applicable, it must be marked as 'N.A.' ('Not applicable') in the corresponding row on the right-hand column of the table and means that the Finding did not have to be corroborated by the Auditor and the related Procedure(s) did not have to be carried out.*

*The reasons of the non-application of a certain Finding must be obvious i.e.:*

- i) if no cost was declared under a certain category then the related Finding(s) and Procedure(s) are not applicable;*
- ii) if the condition set to apply certain Procedure(s) are not met the related Finding(s) and those Procedure(s) are not applicable. For instance, for 'beneficiaries with accounts established in a currency other than euro' the Procedure and Finding related to 'beneficiaries with accounts established in euro' are not applicable. Similarly, if no additional remuneration is paid, the related Finding(s) and Procedure(s) for additional remuneration are not applicable.*

**List here all Findings considered not applicable for the present engagement and explain the reasons of the non-applicability.**

....

### **Exceptions**

Apart from the exceptions listed below, the Beneficiary provided the Auditor all the documentation and accounting information needed by the Auditor to carry out the requested Procedures and evaluate the Findings.

*Explanation (to be removed from the Report):*

- If the Auditor was not able to successfully complete a procedure requested, it must be marked as 'E' ('Exception') in the corresponding row on the right-hand column of the table. The reason such as the inability to reconcile key information or the unavailability of data that prevents the Auditor from carrying out the Procedure must be indicated below.*
- If the Auditor cannot corroborate a standard finding after having carried out the corresponding procedure, it must also be marked as 'E' ('Exception') and, where possible, the reasons why the Finding was not fulfilled and its possible impact must be explained here below.*

**List here any exceptions and add any information on the cause and possible consequences of each exception, if known. If the exception is quantifiable, include the corresponding amount.**

....

*Example (to be removed from the Report):*

- 1. The Beneficiary was unable to substantiate the Finding number 1 on ... because ...*
- 2. After carrying out the agreed procedures to confirm the Finding number 31, the Auditor found a difference of EUR \_\_\_\_\_. The difference can be explained by ...*

### **Further Remarks**



In addition to reporting on the results of the specific procedures carried out, the Auditor would like to make the following general remarks:

*Example (to be removed from the Report):*

- 1. Regarding Finding number 8 the conditions for additional remuneration were considered as fulfilled because ...*
- 2. In order to be able to confirm the Finding number 15 we carried out the following additional procedures: ....*

### **Use of this Report**

This Report may be used only for the purpose described in the above objective. It was prepared solely for the confidential use of the Beneficiary and the Agency, and only to be submitted to the Agency in connection with the requirements set out in Article II.23.2 of the Agreement. The Report may not be used by the Beneficiary or by the Agency for any other purpose, nor may it be distributed to any other parties.

The Agency may only disclose the Report to authorised parties, in particular to the European Anti-Fraud Office (OLAF) and the European Court of Auditors.

This Report relates only to the Financial Statement(s) submitted to the Agency by the Beneficiary for the Agreement. Therefore, it does not extend to any other of the Beneficiary's Financial Statement(s).

There was no conflict of interest<sup>4</sup> between the Auditor and the Beneficiary in establishing this Report. The total fee paid to the Auditor for providing the Report was EUR [REDACTED] (including EUR [REDACTED] of deductible VAT).

We look forward to discussing our Report with you and would be pleased to provide any further information or assistance.

[legal name of the Auditor]

[name and function of an authorised representative]

[dd Month yyyy]

Stamp and signature of the Auditor

Annex 1: Implementation contracts list



cef\_mga\_annex\_vii\_  
revision\_sept\_2017\_;

Annex 2: Certified Financial Statement sampled transactions



cef\_mga\_annex\_vii\_  
revision\_sept\_2017\_;

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<sup>4</sup> A conflict of interest arises when the Auditor's objectivity to establish the certificate is compromised in fact or in appearance when the Auditor for instance:

- was involved in the preparation of the Financial Statements or in providing consultancy advice on the related operations or underlying transactions;
- stands to benefit directly should the certificate be accepted;
- has a close relationship with any person representing the beneficiary, the affiliated entity or the implementing body;
- is a director, trustee or partner of the beneficiary, the affiliated entity or the implementing body; or
- is in any other situation that compromises his or her independence or ability to establish the certificate impartially.

### **Agreed-upon procedures to be performed and standard factual findings to be confirmed by the Auditor**

The Agency reserves the right to i) provide the Auditor with additional guidance regarding the procedures to be followed or the facts to be ascertained and the way in which to present them (this may include sample coverage and findings) or to ii) change the procedures, by notifying the Beneficiary in writing. The procedures carried out by the Auditor to confirm the standard factual finding are listed in the table below.

If this certificate relates to an Affiliated Entity or Implementing Body, any reference here below to 'the Beneficiary' is to be considered as a reference to 'the Affiliated Entity' or 'Implementing Body' respectively.

The 'result' column has three different options: 'C', 'E' and 'N.A.':

- 'C' stands for 'confirmed' and means that the Auditor can confirm the 'standard factual finding' and, therefore, there is no exception to be reported.
- 'E' stands for 'exception' and means that the Auditor carried out the procedures but cannot confirm the 'standard factual finding', or that the Auditor was not able to carry out a specific procedure (e.g. because it was impossible to reconcile key information or data were unavailable),
- 'N.A.' stands for 'not applicable' and means that the Finding did not have to be examined by the Auditor and the related Procedure(s) did not have to be carried out. The reasons of the non-application of a certain Finding must be obvious i.e. i) if no cost was declared under a certain category then the related Finding(s) and Procedure(s) are not applicable; ii) if the condition set to apply certain Procedure(s) are not met then the related Finding(s) and Procedure(s) are not applicable. For instance, for 'beneficiaries with accounts established in a currency other than the euro' the Procedure related to 'beneficiaries with accounts established in euro' is not applicable. Similarly, if no additional remuneration is paid, the related Finding(s) and Procedure(s) for additional remuneration are not applicable.

### **Sampling Requirements and Reporting of Sampled Transactions**

The sampling requirements for each cost category are defined in section A-F of the table below. The sampled transactions overall **must** cover at least 10% of the total declared costs on the financial statement.

If, following the sampling instructions in each section of the table below, an overall financial coverage of 10% of declared costs is not obtained, additional transactions should be tested to achieve this minimum financial coverage. The method used to select the additional transactions is at the discretion of the auditor.

In order for CINEA to identify the sampled transactions, and verify the overall coverage target, the auditor **must** provide the sampled transactions from the certified financial statement at Annex 2.

There is no requirement to separately identify transactions sampled under different cost categories.

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
A	<b>ACTUAL PERSONNEL COSTS AND UNIT COSTS CALCULATED BY THE BENEFICIARY IN ACCORDANCE WITH ITS USUAL COST ACCOUNTING PRACTICE</b>		
	<p>The Auditor draws a sample of persons whose costs were declared in the Financial Statement(s) to carry out the procedures indicated in the consecutive points of this section A.</p> <p><i>(The sample should be selected randomly so that it is representative. Full coverage is required if there are fewer than 10 people (including employees, natural persons working under a direct contract and personnel seconded by a third party), otherwise the sample should have a minimum of 10 people, or 10% of the total personnel cost declared, whichever number is the highest)</i></p> <p>The Auditor sampled [ ] people out of the total of [ ] people.</p>		
A.1	<p><b>PERSONNEL COSTS</b></p> <p><u>For the persons included in the sample and working under an employment contract or equivalent act (general procedures for individual actual personnel costs and personnel costs declared as unit costs)</u></p> <p>To confirm standard factual findings 1-6 listed in the next column, the Auditor reviewed following information/documents provided by the Beneficiary:</p> <ul style="list-style-type: none"> <li>○ a list of the persons included in the sample indicating the period(s) during which they worked for the action, their position (classification or category) and type of contract;</li> <li>○ the payslips of the employees included in the sample;</li> <li>○ reconciliation of the personnel costs declared in the Financial Statement(s) with the accounting system (project accounting and general ledger) and payroll system;</li> </ul>	<p>1) The employees i) were directly hired by the Beneficiary in accordance with its national legislation or seconded to the beneficiary by a third party against payment, ii) under the Beneficiary's sole technical supervision and responsibility and iii) remunerated in accordance with the Beneficiary's usual practices.</p> <p>2) Personnel costs were recorded in the Beneficiary's accounts/payroll system.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<ul style="list-style-type: none"> <li>○ information concerning the employment status and employment conditions of personnel included in the sample, in particular their employment contracts or equivalent;</li> <li>○ the Beneficiary's usual policy regarding payroll matters (e.g. salary policy, overtime policy, variable pay);</li> <li>○ applicable national law on taxes, labour and social security and</li> <li>○ any other document that supports the personnel costs declared.</li> </ul> <p>The Auditor also verified the eligibility of all components of the retribution (see Article II.19.1 and II.19.2.a) of the Agreement) and recalculated the personnel costs for employees included in the sample.</p>	<p>3) Costs were adequately supported and reconciled with the accounts and payroll records.</p> <p>4) Personnel costs did not contain any ineligible elements.</p> <p>5) There were no discrepancies between the personnel costs charged to the action and the costs recalculated by the Auditor.</p> <p>6) The personnel costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.</p>	
	<p><i>Further procedures if 'additional remuneration' is paid</i></p> <p>To confirm standard factual findings 7-8 listed in the next column, the Auditor:</p> <ul style="list-style-type: none"> <li>○ reviewed relevant documents provided by the Beneficiary (legal form, legal/statutory obligations, the Beneficiary's usual policy on additional remuneration, criteria used for its calculation...);</li> <li>○ recalculated the amount of additional remuneration eligible for the action based on the supporting documents received (full-time or part-time work, exclusive or non-exclusive</li> </ul>	<p>7) The amount of additional remuneration paid corresponded to the Beneficiary's usual remuneration practices and was consistently paid whenever the same kind of work or expertise was required.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p>dedication to the action, etc.) to arrive at the applicable full time equivalent (FTE)/year and pro-rata rate (see data collected in the course of carrying out the procedures under A.2 ‘Productive hours’ and A.4 ‘Time recording system’).</p>	<p>8) The criteria used to calculate the additional remuneration were applied by the Beneficiary regardless of the source of funding used.</p>	
	<p><i>Additional procedures in case “unit costs calculated by the Beneficiary in accordance with its usual cost accounting practices” is applied:</i></p> <p>Apart from carrying out the procedures indicated above to confirm standard factual findings 1-6 and, if applicable, also 7-8, the Auditor carried out following procedures to confirm standard factual findings 9-12 listed in the next column:</p> <ul style="list-style-type: none"> <li>○ obtained a description of the Beneficiary's usual cost accounting practice to calculate unit costs;</li> <li>○ reviewed whether the Beneficiary's usual cost accounting practice was applied for the Financial Statements subject of the present CFS;</li> <li>○ verified the employees included in the sample were charged under the correct category (in accordance with the criteria used by the Beneficiary to establish personnel categories) by reviewing the contract/HR-record or analytical accounting records;</li> </ul>	<p>9) The personnel costs included in the Financial Statement were calculated in accordance with the Beneficiary's usual cost accounting practice.</p>	
		<p>10) The employees were charged under the correct category.</p>	
		<p>11) Total personnel costs used in calculating the unit costs were consistent with the expenses recorded in the statutory accounts.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<ul style="list-style-type: none"> <li>○ verified that there is no difference between the total amount of personnel costs used in calculating the cost per unit and the total amount of personnel costs recorded in the statutory accounts;</li> <li>○ verified whether actual personnel costs were adjusted on the basis of budgeted or estimated elements and, if so, verified whether those elements used were relevant for the calculation, reasonable and correspond to objective and verifiable information supported by documents;</li> <li>○ verified that unit costs were calculated in accordance with the methodology laid down in Commission Decision C(2016) 478 of 3.2.2016 on the reimbursement of personnel costs of beneficiaries of the Connecting Europe Facility.</li> </ul>	12) Any estimated or budgeted element used by the Beneficiary in its unit-cost calculation were relevant for calculating personnel costs and corresponded to objective and verifiable information.	
	<p><u>For natural persons included in the sample and working with the Beneficiary under a direct contract other than an employment contract, such as consultants.</u></p> <p>To confirm standard factual findings 13-16 listed in the next column the Auditor reviewed following information/documents provided by the Beneficiary:</p> <ul style="list-style-type: none"> <li>○ the contracts, especially the cost, contract duration, work description, place of work, ownership of the results and reporting obligations to the Beneficiary;</li> <li>○ the employment conditions of staff in the same category to compare costs and;</li> <li>○ any other document that supports the costs declared and its registration (e.g. invoices, accounting records, etc.).</li> </ul>	13) The natural persons reported to the Beneficiary (worked under the conditions similar to those of an employee: in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed).	
		14) The results of work carried out belong to the Beneficiary (unless exceptionally agreed otherwise).	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
		15) Their costs were not significantly different from those for staff who perform similar tasks under an employment contract with the Beneficiary.	
		16) The costs were supported by audit evidence and registered in the accounts.	
A.2	<p><b>PRODUCTIVE HOURS</b></p> <p>To confirm standard factual findings 17-22 listed in the next column, the Auditor reviewed relevant documents, especially national legislation, labour agreements and contracts and time records of the persons included in the sample, to verify that:</p> <ul style="list-style-type: none"> <li>○ the annual productive hours applied were calculated in accordance with one of the methods described below;</li> <li>○ the full-time equivalent (FTEs) ratios for employees not working full-time were correctly calculated.</li> </ul> <p>If the Beneficiary applied method B, the Auditor verified that the correctness in which the total number of hours worked was calculated and that the contracts specified the annual workable hours. If the Beneficiary applied method C, the Auditor verified that the ‘annual productive hours’ applied when calculating the hourly rate were equivalent to at least 90 % of the ‘standard annual workable hours’. The Auditor can only do this if the calculation of the standard annual workable hours can be supported by records, such as national legislation, labour agreements, and contracts.</p>	<p>17) The Beneficiary applied method [<i>choose one option and delete the others</i>]</p> <p>[A: 1720 hours]</p> <p>[B: the ‘total number of hours worked’]</p> <p>[C: ‘annual productive hours’ used correspond to usual accounting practices]</p>	
		18) Productive hours were calculated annually.	
		19) For employees not working full-time the full-time	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><i>Beneficiary's Productive hours' for persons working full time shall be one of the following methods:</i></p> <p><i>A. 1720 hours for persons working full time (or corresponding pro-rata for persons not working full-time);</i></p> <p><i>B. the total number of hours worked by the person for the beneficiary in the year (this method is also referred to as 'total number of hours worked' in the next column). The calculation of the total number of hours worked was done as follows: annual workable hours of the person according to the employment contract, applicable labour agreement or national law plus overtime worked minus absences (such as sick leave or special leave);</i></p> <p><i>C. the standard number of annual hours generally applied by the beneficiary for its personnel in accordance with its usual cost accounting practices (this method is also referred to as 'total annual productive hours' in the next column). This number must be at least 90% of the standard annual workable hours.</i></p> <p>'Annual workable hours' means the period during which the personnel must be working, at the employer's disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation.</p>	<p>equivalent (FTE) ratio was correctly applied.</p> <p><i>If the Beneficiary applied method B.</i></p> <p>20) The calculation of the number of 'annual workable hours', overtime and absences was verifiable based on the documents provided by the Beneficiary.</p> <p><i>If the Beneficiary applied method C.</i></p> <p>21) The calculation of the number of 'standard annual workable hours' was verifiable based on the documents provided by the Beneficiary.</p> <p>22) The 'annual productive hours' used for calculating the hourly rate were consistent with the usual cost accounting practices of the Beneficiary and were equivalent to at least 90 % of the 'annual workable hours'.</p>	



Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
A.3	<p><b>HOURLY PERSONNEL RATES</b></p> <p><u>D) For unit costs calculated in accordance to the Beneficiary's usual cost accounting practice (unit costs):</u></p> <p>The Auditor:</p> <ul style="list-style-type: none"> <li>○ reviewed the documentation provided by the Beneficiary, including manuals and internal guidelines that explain how to calculate hourly rates;</li> <li>○ recalculated the unit costs (hourly rates) of staff included in the sample following the results of the procedures carried out in A.1 and A.2.</li> </ul> <p><u>II) For individual hourly rates:</u></p> <p>The Auditor:</p> <ul style="list-style-type: none"> <li>○ reviewed the documentation provided by the Beneficiary, including manuals and internal guidelines that explain how to calculate hourly rates;</li> <li>○ recalculated the hourly rates of staff included in the sample following the results of the procedures carried out in A.1 and A.2.</li> </ul> <p><u>“Unit costs calculated by the Beneficiary in accordance with its usual cost accounting practices”:</u>  <i>It is calculated by dividing the total amount of personnel costs of the category to which the employee belongs verified in line with procedure A.1 by the number of FTE and the annual total productive hours of the same category. calculated by the Beneficiary in accordance with procedure A.2.</i></p> <p><u>Hourly rate for individual actual personal costs:</u></p>	<p>23) The Beneficiary applied  <i>[choose one option and delete the other]:</i></p> <p>[Option I: “Unit costs (hourly rates) were calculated in accordance with the Beneficiary’s usual cost accounting practices”]</p> <p>[Option II: Individual hourly rates were applied]</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><i>It is calculated by dividing the total amount of personnel costs of an employee verified in line with procedure A.1 by the number of annual productive hours verified in line with procedure A.2.</i></p>	<p><i>For Option I concerning unit costs:</i>                      24) The unit costs re-calculated by the Auditor were the same as the rates applied by the Beneficiary.</p>	
		<p><i>For Option II concerning individual hourly rates:</i>                      25) The individual rates re-calculated by the Auditor were the same as the rates applied by the Beneficiary.</p>	
<p><b>A.4</b></p>	<p><b>SME OWNERS AND NATURAL PERSONS NOT RECEIVING A SALARY</b></p> <p>The Auditor:</p> <ul style="list-style-type: none"> <li>○ verified that the unit per hour worked on the action was calculated in accordance with the methodology laid down in Commission Decision C(2016)478 of 3 February 2016;</li> <li>○ verified that the total number of hours declared, in a year, for one SME owner not receiving a salary is not higher than 1 720 hours.</li> </ul> <p><u><i>“Unit costs for SME owners and natural persons not receiving a salary”:</i></u></p> <p><i>The direct personnel costs of SMEs owners not receiving a salary shall be based on a unit cost per hour worked on the action to be calculated as follows:</i></p>	<p>26) For SME owners and natural persons not received a salary, the direct personnel costs have been declared based on a unit costs per hour worked on the action.</p>	
		<p>27) The unit costs declared were calculated in accordance with Commission Decision C(2016)478</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<p><i>{Monthly living allowance fixed at EUR 4 650 multiplied by the country-specific correction coefficient as set out in the Appendix of Commission Decision C(2016)478} divided by 143 hours</i></p> <p><i>The value of the work of the SME owners not receiving a salary shall be determined by multiplying the unit cost by the number of actual hours worked on the Action.</i></p> <p><i>The standard number of annual productive hours per SME owner is equal to 1 720 hours. The total number of hours declared, in a year, in EU and Euratom grants for one SME owner not receiving a salary may not be higher than the standard number of annual productive hours (1 720 hours).</i></p>	<p>28) The total number of hours declared in a year do not exceed 1 720 hours</p>	
<p><b>A.5</b></p>	<p><b>TIME RECORDING SYSTEM</b></p> <p>To verify that the time recording system ensures the fulfilment of all minimum requirements and that the hours declared for the action were correct, accurate and properly authorised and supported by documentation, the Auditor made the following checks for the persons included in the sample that declare time as worked for the action on the basis of time records:</p> <ul style="list-style-type: none"> <li>○ description of the time recording system provided by the Beneficiary (registration, authorisation, processing in the HR-system);</li> <li>○ its actual implementation;</li> <li>○ time records were signed at least monthly by the employees (on paper or electronically) and authorised by the project manager or another manager;</li> <li>○ the hours declared were worked within the reporting period;</li> <li>○ there were no hours declared as worked for the action if HR-records showed absence due to holidays or sickness (further cross-checks with travels are carried out in B.1 below) ;</li> <li>○ the hours charged to the action matched those in the time recording system.</li> </ul>	<p>29) All persons recorded their time dedicated to the action on a <b>daily/ weekly/ monthly</b> basis using a <b>paper/computer-based</b> system. <i>[delete the answers that are not applicable]</i></p> <p>30) Their time-records were authorised at least monthly by the project manager or other superior.</p> <p>31) Hours declared were worked within the reporting period and were consistent with the presences/absences recorded in HR-records.</p>	

<b>Ref</b>	<b>Procedures</b>	<b>Standard factual finding</b>	<b>Result (C / E / N.A.)</b>
	<p><i>Only the hours worked on the action can be charged. All working time to be charged should be recorded throughout the duration of the REPORTING PERIOD, adequately supported by evidence of their reality and reliability (see specific provisions below for persons working exclusively for the action without time records).</i></p> <p><i>The time recording system should record all working time including absences and may be paper or electronically based. The time records must be approved by the persons working on the action and their supervisors, at least monthly. The absence of an adequate time recording system is considered to be a serious and systematic weakness of internal control.</i></p>	<p>32) There were no discrepancies between the number of hours charged to the action and the number of hours recorded.</p>	
	<p><u>If the persons are working exclusively for the action and without time records</u></p> <p>For the persons selected that worked exclusively for the action without time records, the Auditor verified evidence available demonstrating that they were in reality exclusively dedicated to the action and that the Beneficiary signed a declaration confirming that they have worked exclusively for the action.</p>	<p>33) The exclusive dedication is supported by a declaration signed by the Beneficiary's and by any other evidence gathered.</p>	

<b>B</b>	<b>AWARDED CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE ACTION</b>		
<b>B.1</b>	<p><b>Assessment of the procurement process</b></p> <p><b>The Auditor obtained the detail/breakdown of procured costs and sampled [REDACTED] contracts selected randomly</b> for testing of the applied procurement procedure (<i>full coverage is required if there are fewer than 5 contracts, otherwise the sample should have a minimum of 5 contracts, or 10% of the total number of contracts, whichever number is the highest</i>).</p> <p>In order to select the sample, a full schedule of all contracts awarded relevant to the costs declaration certified was made available for the Auditor including the name of the Contracting Authority /Entity, supplier name, subject of the contract, type of procurement procedure applied, level and means of advertisement (including references to contract notices and contract award notices or other means), the initial contract value and the aggregate value including all subsequent amendments to the original contract and date of publication of the relevant tender or at least the date of the award of the contract if no publication took place.</p> <p><b>This schedule should be attached to the CFS as Annex 1</b></p> <p>To confirm standard factual finding 31-59 listed in the next column, the Auditor reviewed the following for the items included in the sample:</p> <p><u><b>B.1.1) THE NATIONAL LAW TRANSPOSING THE EU DIRECTIVES ON PUBLIC PROCUREMENT PROCEDURES IS APPLICABLE TO THE CONTRACT(S) IN QUESTION</b></u></p> <p><b>If this is not applicable, go directly to section B.1.2</b></p> <p>From the sampled contracts, the Auditor verified that (35-52):</p> <ul style="list-style-type: none"> <li>○ the contracted tasks are relevant for the activities (or sub-activities) defined in the Agreement (Article 1 and Annex I of the Agreement);</li> <li>○ the contracts were not awarded to other Beneficiaries listed in the Agreement (<i>in such cases, the costs should be declared on an actual cost basis by the co-beneficiary and not as a profit generating contract between beneficiaries</i>);</li> </ul>	<p>34) The required information on all contracts signed relevant to the costs declared was provided by the beneficiary in order to select the sample.</p>	
		<p>35) The contracted works/ services/ supplies were linked to the activities covered in the Agreement.</p>	

<ul style="list-style-type: none"> <li>○ there were signed contracts between the Beneficiary and the contractor;</li> <li>○ there was evidence that the contract was executed by the contractor (i.e. services were provided, works/supply were delivered).</li> <li>○ the procurement procedure used was in compliance with the national law transposing the EU legal framework (EU Directive(s) on public procurement);</li> <li>○ the respective EU public procurement thresholds were not bypassed by artificial contract splitting by the beneficiary; <i>(This can be considered by examining the list of all contracts signed (obtained under section B.1.1) above), their value and type of procedure. If the subjects of several contracts are so closely linked to another one in the cost claim, that they could or should have been tendered together, and the concerned contracts – usually below EU thresholds - were awarded to the same contractor(s), the auditor provides a clear explanation of why each contract had to be considered as separate procurement exercise);</i></li> <li>○ adequate justification is provided on the use of negotiated procedures with or without prior call for competition under the national law transposing the relevant EU public procurement Directives;</li> <li>○ Publicity was ensured during the tendering process in line with the national legislation (contract notice, contract award notice is available or level of publicity is satisfactory if prior publication in the Official Journal is not needed).</li> <li>○ the deadline for submitting requests to participate/tenders was consistent with the national / European legal framework;</li> <li>○ the procedure was sufficiently transparent and non-discriminatory (the selection and award criteria enabled fair competition and did not unfairly favour any bidder);</li> <li>○ the selection and award criteria were predefined in the contract notice / tender specifications and were not changed during the evaluation process;</li> <li>○ the evaluation was sufficiently documented, with a clear audit trail leading to the selection of the contractor recommended by the evaluation process;</li> </ul>	<p>36) The contracts were not signed with other co- Beneficiaries</p>	
	<p>37) The Beneficiary provided original signed contracts with the contractor.</p>	
	<p>38) The Beneficiary provided adequate evidence that the services/ works were provided by the contractors.</p>	
	<p>39) The contract(s) in question falls within the scope of application of the national law transposing the EU Directives on public procurement procedures.</p>	
	<p>40) No indications of artificial contractual splitting aimed at avoiding the application of the national law transposing the EU Directives on public procurement procedures were observed based on the review of the complete contract listing. <i>(When indications are noted the Auditor explains the reasons provided by the</i></p>	

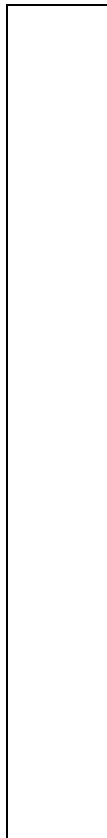
<ul style="list-style-type: none"> <li>○ exclusions / rejections during the tender evaluation were compliant with the tender specifications and could be validated by the Auditor;</li> <li>○ the amount, duration and conditions of the contract signed following the award process were consistent with the provisions stipulated in the procurement documents;</li> </ul> <p>In the case of post contract award amendments, the Auditor verified that (60-63):</p> <ul style="list-style-type: none"> <li>○ the beneficiary has produced documented technical and legal justification for the amendment, and its compliance with the requirements of the applicable national law transposing the EU Directives on public procurement procedures;</li> <li>○ the amendments signed were compliant with national law transposing the EU Directives (a strict interpretation of the requirements of the national transposing the Directives is required as the use of negotiated procedures without prior call for competition always constitute an exception and shall be justified under Article 31 of Directive 2004/18/EC or Article 40 of Directive 2014/17/EC by the party seeking to rely on their use) or the amendments are compliant with Article 72 of Directive 2014/24/EU or Article 89 of Directive 2014/25/EU if the national transposing these Directives was applicable to the contract in question;</li> <li>○ amendments do not introduce changes which are materially different in character from the conditions of the original contract showing the intention to renegotiate essential terms of the contract;</li> <li>○ amendments do not introduce conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted;</li> <li>○ the scope of the contract has not been extended considerably to encompass services not covered initially;</li> </ul>	<ul style="list-style-type: none"> <li>○ exclusions / rejections during the tender evaluation were compliant with the tender specifications and could be validated by the Auditor;</li> <li>○ the amount, duration and conditions of the contract signed following the award process were consistent with the provisions stipulated in the procurement documents;</li> </ul> <p>In the case of post contract award amendments, the Auditor verified that (60-63):</p> <ul style="list-style-type: none"> <li>○ the beneficiary has produced documented technical and legal justification for the amendment, and its compliance with the requirements of the applicable national law transposing the EU Directives on public procurement procedures;</li> <li>○ the amendments signed were compliant with national law transposing the EU Directives (a strict interpretation of the requirements of the national transposing the Directives is required as the use of negotiated procedures without prior call for competition always constitute an exception and shall be justified under Article 31 of Directive 2004/18/EC or Article 40 of Directive 2014/17/EC by the party seeking to rely on their use) or the amendments are compliant with Article 72 of Directive 2014/24/EU or Article 89 of Directive 2014/25/EU if the national transposing these Directives was applicable to the contract in question;</li> <li>○ amendments do not introduce changes which are materially different in character from the conditions of the original contract showing the intention to renegotiate essential terms of the contract;</li> <li>○ amendments do not introduce conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted;</li> <li>○ the scope of the contract has not been extended considerably to encompass services not covered initially;</li> </ul>	<p><i>Beneficiary under the caption "Exceptions" of the Report. The Agency will analyse this information to evaluate whether these costs might be accepted as eligible).</i></p>	
		<p>41) The procurement procedure selected was in compliance with the national law transposing the EU Directives on public procurement (justification was provided on the use of negotiated procedures with or without prior call for competition under the national law transposing the relevant EU public procurement Directives)</p>	
		<p>42) The conditions for publication according to national law transposing the EU law were respected (contract notice / contract award notice where applicable) .</p>	

<ul style="list-style-type: none"> <li>○ the economic balance of the contract has not changed in favour of the supplier in a manner which was not provided for in the terms of the initial procurement documents.</li> <li>○ Where the national law transposing Directives 2014/24/EU or 2014/25/EU is applicable and a new contractor replaces the one to which the contract was initially awarded the amendment is in line with Article 72(1)(d) of Directive 2014/24/EU or Article 89(1)(d) of Directive 2014/25/EU: there is either (1) an unequivocal review clause or option or , (2) a universal or partial succession of the initial contractor and the new contractor fulfils the criteria for qualitative selection without modifying substantially the contractor or (3) the contracting authority assumes itself the role of the main contractor.</li> <li>○ Where the national law transposing Directives 2014/24/EU or 2014/25/EU is applicable the value of the modification is below the applicable threshold and 10 % of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts.</li> </ul>	<p>43) The deadlines to request participation, submit tenders, or ask for information were compliant with the requirements of the applicable national law transposing the EU Directives on public procurement.</p>	
	<p>44) The procurement procedures applied were transparent and non-discriminatory.</p>	
	<p>45) The selection and award criteria were published in the contract notice / tender specifications. No changes to the exclusion / selection / award criteria were made after the submission of tenders.</p>	
	<p>46) The evaluation was based on pre-defined criteria. The award decision was consistent with the results obtained and the contract was awarded to the best ranked tender.</p>	





47) In case of tenders excluded/rejected during the evaluation process the exclusion/rejection was justified and consistent with the requirements in the contract notice / tender specifications (exclusion, selection and award criteria).	
48) The amount, duration and conditions of the contract signed following the award process were consistent with the winning tender and tender specifications.	
49) The contractual amendments signed were compliant with national law transposing the relevant EU Directives.	
50) In case of amendments, the beneficiary has produced documented technical and legal	



justification for the amendment, and its compliance with the requirements of the applicable national law transposing the EU Directives on public procurement.	
51) In case of amendments the scope of the contract has not been extended considerably to encompass services not covered initially.	
52) In case of amendments the economic balance of the contract has not changed in favour of the supplier in a manner which was not provided for in the terms of the initial procurement documents.	

<p><b>B.1.2) <u>FOR ALL CONTRACTS, THE AUDITOR VERIFIED THAT (57-58):</u></b></p> <p>To confirm standard factual finding 53-59 listed in the next column, the Auditor reviewed the following for the items included in the sample:</p> <ul style="list-style-type: none"> <li>○ the contracted tasks are relevant for the activities (or sub-activities) defined in the Agreement (Article 1 and Annex I of the Agreement);</li> <li>○ the Beneficiary followed their usual procurement rules;</li> <li>○ supporting documents on the selection and award procedure demonstrate that the selected contractor offered the best value (or lowest price) according to the criteria defined by the beneficiary;</li> <li>○ original tenders of all tenderers were reviewed and consistent with the evaluation documents (entity name / price/submission date) - (Article II.27.2 GA);</li> <li>○ the Beneficiary ensured that there was no conflict of interest when selecting and awarding the contract to the contractor.</li> <li>○ the contracts were not awarded to other Beneficiaries listed in the Agreement (<i>in such cases, the costs should be declared on an actual cost basis by the co-beneficiary and not as a profit generating contract between beneficiaries</i>);</li> <li>○ there were signed contracts between the Beneficiary and the contractor;</li> <li>○ there was evidence that the contract was executed by the contractor (i.e. services were provided, works/supply were delivered).</li> <li>○ In the award of the audited contracts, the principle of sound financial management and basic principles of the Treaty of the Functioning of the European Union are respected (transparency, equal treatment, non-discrimination).</li> </ul> <p>In case there is a cross-border interest, if an adequate level of publicity has been ensured and the provisions of Commission Communication 2006/C 179/02 have been respected.</p>	<p>53) The required information on all contracts signed relevant to the costs declared was provided by the beneficiary in order to select the sample.</p>	
	<p>54) The contracted works/ services/ supplies were linked to the activities covered in the Agreement.</p>	
	<p>55) The contracts were not signed with other co- Beneficiaries</p>	
	<p>56) The Beneficiary provided signed contracts with the contractor.</p>	
	<p>57) The Beneficiary provided adequate evidence that the services/ works were provided by the contractors.</p>	

		<p>58) The principle of sound financial management and basic principles of the Treaty (transparency, equal treatment, non-discrimination) are respected.</p>	
		<p>59) For Beneficiaries acting as Contracting Authorities or Contracting Entities, in case the national law on public procurement transposing the Directives is not or only partially applicable due to exceptions provided by the Directives and there is a cross-border interest, verify if an adequate level of publicity has been ensured in line with Commission Communication 2006/C 179/02.</p>	
<p><b>B.2</b></p>	<p><b>Transaction controls for procurement related costs</b></p> <p><i>In section B.1, the contract award and post contract award process was verified in order to test compliance with Article II.9 of the Grant Agreement. The purpose of this section is to verify if the costs declared arising from the contracting procedures are eligible in line with Article II.19 of the grant agreement.</i></p>	<p>60) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.</p>	

**Based on the contracts sampled in section B.1, the Auditor randomly sampled at least 10% of the total value of costs declared for each procurement procedure selected under section B.1** in order to verify if the declared costs were incurred in compliance with the grant agreement eligibility conditions defined in article II.19 (*full coverage is required if there are fewer than 5 transactions per contract, otherwise the sample should have a minimum of 10% of the total value of costs declared per contract.*)

61) The declared costs were accounted according to the Beneficiary's usual accounting practice	
62) The declared costs were covered by the activities in the Agreement	
63) In the case of contractual amendments, the conditions under B1.1 were respected and the related costs are considered eligible.	

<b>C</b>	<b>COSTS OF PROVIDING FINANCIAL SUPPORT TO THIRD PARTIES</b>		
<b>C.1</b>	<p><b>The Auditor obtained the detail/breakdown of the costs of providing financial support to third parties and sampled [REDACTED] cost items selected randomly</b> <i>(full coverage is required if there are fewer than 5 items, otherwise the sample should have a minimum of 5 item, or 10% of the total costs declared under this category, whichever number is the highest).</i></p> <p>If the possibility to give financial support to third parties is provided for in the Agreement (Article 17 of the Agreement), the Auditor verified that the following minimum conditions were met:</p> <ul style="list-style-type: none"> <li>a) the maximum amount of financial support for each third party did not exceed EUR 60 000, unless it is the primary aim of the action as specified in Annex I of the Agreement;</li> <li>b) the financial support to third parties was agreed in Annex I of the Agreement and the other provisions on financial support to third parties included in Annex I were respected (i.e. the criteria for determining the exact amount of the financial support, the different types of activity that may receive financial support on the basis of a fixed list, the definition of the persons or categories of persons which may receive financial support, the criteria for giving the financial support);</li> <li>c) in case the financial support takes the form of a prize, the financial support to third parties was given in accordance with the conditions specified in Annex I of the Agreement, including inter alia the conditions for participation, the award criteria, the amount of the prize and the payment arrangements.</li> </ul>	64) Article II.11 applies (Article 17) and all minimum conditions were met.	
		65) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.	
<b>D</b>	<b>OTHER ACTUAL DIRECT COSTS</b>		
<b>D.1</b>	<p><b>COSTS OF TRAVEL AND RELATED SUBSISTENCE ALLOWANCES</b></p> <p><b>The Auditor obtained the detail/breakdown of travel and subsistence costs and sampled [REDACTED] cost items selected randomly</b> <i>(full coverage is required if there are fewer than 10 items,</i></p>	66) Costs were incurred, approved and reimbursed in line with the Beneficiary's usual policy for travels.	

<p><i>otherwise the sample should have a minimum of 5 items, or 10% of the total costs declared under this category, whichever number is the highest)</i></p> <p>The Auditor inspected the sample and verified that:</p> <ul style="list-style-type: none"> <li>○ travel and subsistence costs were consistent with the Beneficiary's usual policy for travel. In this context, the Beneficiary provided evidence of its normal policy for travel costs (e.g. use of first class tickets, reimbursement by the Beneficiary on the basis of actual costs, a lump sum or per diem) to enable the Auditor to compare the travel costs charged with this policy;</li> <li>○ travel costs are correctly identified and allocated to the action (e.g. trips are directly linked to the action) by reviewing relevant supporting documents such as minutes of meetings, workshops or conferences, their registration in the correct project account, their consistency with time records or with the dates/duration of the workshop/conference;</li> <li>○ no ineligible costs or excessive or reckless expenditure was declared (see Articles II.19.3 and II.19.4 of the Agreement).</li> </ul>	67) There was a link between the trip and the action.	
	68) The supporting documents were consistent with each other regarding subject of the trip, dates, duration and reconciled with time records and accounting.	
	69) No ineligible costs or excessive or reckless expenditure was declared.	
	70) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.	

<p><b>D.2</b></p>	<p><b>COSTS FOR EQUIPMENT, INFRASTRUCTURE OR OTHER ASSETS</b></p> <p><b>The Auditor obtained the detail/breakdown of equipment, infrastructure and other assets and sampled [redacted] cost items selected randomly</b> (<i>full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 5 items, or 10% of the total costs declared under this category, whichever number is the highest</i>).</p> <p>In addition to the verifications listed under point B.1.1) (standard findings 34-52) or, if applicable, also under point B.1.2) (standard findings 53-59), the Auditor performed the following:</p> <ul style="list-style-type: none"> <li>○ If only the depreciation costs are eligible in accordance with Article II.19.2 (c) of the Agreement: the Auditor recalculated the depreciation costs and verified that they were in line with the applicable rules in the international accounting standards and the usual accounting practices of the Beneficiary (e.g. depreciation calculated on the acquisition value);</li> <li>○ The extent to which the assets were used for the action (as a percentage) was supported by reliable documentation (e.g. usage overview table);</li> <li>○ The Auditor verified that no ineligible costs such as deductible VAT, exchange rate losses, excessive or reckless expenditure were declared (see Articles II.19.3 and II.19.4 of the Agreement);</li> <li>○ Costs of contracts for goods, works or services or of subcontracts are considered to be incurred when the contract or subcontract (or part of it) is executed, i.e. when the goods, works or services (including studies) are supplied, delivered or provided (see Article II.19.1 of the Agreement).</li> </ul>	<p>71) [<i>choose one option and delete the other</i>].</p> <p>[<i>Option 1</i>: Only the depreciation costs for equipment, infrastructure or other assets are eligible in accordance with Article II.19.2 (c) of the Agreement].</p> <p>[<i>Option 2</i>: The full purchase costs are eligible in accordance with Article II.19.2 (c) of the Agreement].</p>	
		<p>72) Where only depreciation costs are eligible, the depreciation method used to charge the asset to the action was in line with the applicable rules of the Beneficiary's country and the Beneficiary's usual accounting policy.</p>	
		<p>73) Where only the depreciation costs are eligible, the amount charged corresponded to the actual usage for the action.</p>	



		74) Where the full purchase costs are eligible, the assets purchased are treated as capital expenditure in accordance with the tax and accounting rules applicable to the beneficiary, and are recorded in the fixed assets account of its balance sheet.	
<b>D.3</b>	<p><b>COSTS OF SUBCONTRACTING in line with Article II. 10.2</b></p> <p><b>The Auditor obtained the detail/breakdown of subcontracting costs and sampled [REDACTED] cost items selected randomly</b> (<i>full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 5 items, or 10% of the total costs declared under this category, whichever number is the highest</i>).</p> <p>For the items included in the sample, in addition to the verifications listed under point B.1.1) (standard findings 34-52) or, if applicable, also under point B.1.2) (standard findings 53-59), the Auditor reviewed the following in order to confirm standard factual finding 75 in the next column:</p> <ul style="list-style-type: none"> <li>○ the use of subcontractors was foreseen in Annex I or communicated by the coordinator and approved by the Commission (see Article II.10.2 of the Agreement);</li> <li>○ for Agreements signed under the CEF-Telecom, subcontracting costs were declared in the subcontracting category of Annex III and the Financial Statement.</li> </ul>	75) The use of claimed subcontracting costs was foreseen in Annex I for all sectors of CEF and for CEF Telecom the costs were declared in Annex III and the Financial Statements under the subcontracting category.	
<b>D.4</b>	<p><b>COSTS RELATED TO LAND AND BUILDING ACQUISITION</b></p> <p><b><u>Only applicable for Agreements signed under the CEF-Transport, which specifically provide for the eligibility of land and building acquisition.</u></b></p>	76) Land / building acquisition costs are eligible in accordance with Article 15 of the Agreement.	

	<p><b>The Auditor obtained the detail /breakdown of land and building acquisition costs and sampled [REDACTED] cost items selected randomly</b> (full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 5 items, or 10% of the total costs declared under this category, whichever number is the highest).</p> <p>For the purchase of land included in the sample the Auditor verified that:</p> <ul style="list-style-type: none"> <li>○ the costs of purchase of land not built on and land built on were eligible in accordance with Article 15 of the Agreement and did not exceed 10 % of the total eligible costs of the action;</li> <li>○ the costs of purchase of derelict sites and purchase of sites formerly in industrial use which comprise buildings were eligible in accordance with Article 15 of the Agreement and did not exceed 15 % of the total eligible costs of the action;</li> <li>○ the costs did not exceed the limit agreed upon in the Agreement for operations concerning environmental conservation (Article 15 of the Agreement);</li> <li>○ they were correctly identified, and allocated to the proper action.</li> </ul> <p>The Auditor verified that no ineligible costs were declared (Articles II.19.3 and II.19.4 of the Agreement).</p>	77) Costs were allocated to the correct action.	
		78) Costs do not exceed the maximum ceiling as specified in the Agreement.	
		79) Costs were charged in line with the Beneficiary’s accounting policy and were adequately supported.	
		80) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.	
D.5	<p><b>OTHER DIRECT COSTS NOT COVERED BY CATEGORIES D.1-D.4</b></p> <p><b>The Auditor obtained the detail/breakdown of other direct costs and sampled [REDACTED] cost items selected randomly</b> (full coverage is required if there are fewer than 10 items, otherwise the sample should have a minimum of 5 items, or 10% of the total costs declared under this category, whichever number is the highest).</p>	81) The cost allocation of the declared costs was consistent with the activities performed and the activities covered by the Agreement.	

	<p>The Auditor inspected the sample and verified that:</p> <ul style="list-style-type: none"> <li>○ costs are relevant for the activities (or sub-activities) defined in the Agreement (Article 1 and Annex I of the Agreement);</li> <li>○ the declared costs were allocated to the correct activity (or sub-activity) as defined in the Agreement;</li> <li>○ the declared costs were incurred during the reporting period covered by the cost declaration;</li> <li>○ the declared costs were accounted in line with the beneficiary's usual accounting practice;</li> <li>○ The Auditor verified that no ineligible costs such as deductible VAT, exchange rate losses, excessive or reckless expenditure were declared (see Article II.19.4 of the Agreement)</li> </ul>	<p>82) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.</p>	
		<p>83) The declared costs were accounted according to the Beneficiary's usual accounting practice.</p>	
<p><b>E</b></p>	<p><b>USE OF EXCHANGE RATES</b></p>		
<p><b>E.1</b></p>	<p>a) <u>For Beneficiaries with accounts established in a currency other than euros</u></p> <p><b>The Auditor sampled [REDACTED] cost items selected randomly and verified that the exchange rates used for converting other currencies into euros were in accordance with the following rules established in the Agreement</b> (<i>full coverage is required if there are fewer than 5 items, otherwise the sample should have a minimum of 5 item, or 10% of the total, whichever number is the highest</i>):</p> <p><i>Costs incurred in another currency shall be converted into euro at the average of the daily exchange rates published in the C series of Official Journal of the European Union (<a href="http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html">http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html</a> ), determined over the corresponding reporting period.</i></p> <p><i>If no daily euro exchange rate is published in the Official Journal of the European Union for the currency in question, conversion shall be made at the average of the monthly accounting rates established by the Commission and published on its website</i></p>	<p>84) The exchange rates used to convert other currencies into Euros were in accordance with the rules established in the Grant Agreement and there was no difference in the final figures.</p>	

	<p>(<a href="http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm">http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm</a>), determined over the corresponding reporting period.</p> <p>A guide to currency conversion to euro is available from the INEA website: <a href="https://ec.europa.eu/inea/sites/inea/files/practical_help_to_the_implementation_of_article_ii_23_4_final.pdf">https://ec.europa.eu/inea/sites/inea/files/practical_help_to_the_implementation_of_article_ii_23_4_final.pdf</a></p>		
	<p>b) For Beneficiaries with accounts established in euros</p> <p><b>The Auditor sampled [REDACTED] cost items selected randomly and verified that the exchange rates used for converting other currencies into euros were in accordance with the following rules established in the Agreement ( full coverage is required if there are fewer than 5 items, otherwise the sample should have a minimum of 5 item, or 10% of the total, whichever number is the highest):</b></p> <p><i>Costs incurred in another currency shall be converted into euro by applying the Beneficiary's usual accounting practices.</i></p>	85) The Beneficiary applied its usual accounting practices.	
<b>F</b>	<b>COMPLIANCE WITH ELIGIBILITY PERIOD</b>		
<b>F1</b>	<p><b>a) Regardless of their nature, the Auditor samples the 10 earliest dated and 10 latest dated transactions in the financial statement).</b> If cost items falling into this category have already been sampled under previous checked, and eligibility verified, the test does not have to be repeated.</p> <p>The Auditor inspected the sample and verified that:</p> <ul style="list-style-type: none"> <li>○ the declared costs were incurred during the reporting period covered by the cost declaration;</li> <li>○ the declared costs were accounted in line with the beneficiary's usual accounting practice;</li> <li>○ The Auditor verified that no ineligible costs such as deductible VAT, exchange rate losses, excessive or reckless expenditure were declared (see Article II.19.4 of the Agreement)</li> </ul> <p><i>'cost were incurred' is when the generating event that triggers the costs takes place. It must be during the action duration.</i></p> <p><i>If costs are invoiced or paid later than the action completion date (Article 2.2), they are eligible only if the debt existed already during the action duration (supported by documentary evidence) and the final cost was known at the moment of the financial report.</i></p>	86) The costs declared were incurred within the reporting period and free from non-eligible costs set out in Article II.19.4 of the Agreement.	
		87) The declared costs were accounted according to the Beneficiary's usual accounting practice.	

	<p><i>Costs of services or equipment supplied to a beneficiary may be invoiced and paid after the end date of the action if the services or equipment were delivered to the beneficiary during the action duration. By contrast, costs of services or equipment supplied after the end of the action (or after GA termination) are not eligible.</i></p>		
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### **Annex 1.6.5.A DATA PROTECTION**

1. The Beneficiary and the Auditor will comply with applicable data protection legislation in relation to any personal data shared with the Auditor under the ToR.
2. The Beneficiary discloses personal data to the Auditor for the purposes of audit execution under the ToR. The Beneficiary will not provide the Auditor personal data unless the ToR requires the use of such personal data. The Beneficiary confirms that it has competence and necessary authorization from all relevant data subjects, as required under applicable data protection legislation. The Beneficiary also confirms that such data subjects have been given necessary information regarding disclosure. of their personal data..
3. The Auditor determined that he will process personal data received from the Beneficiary for the purposes of any of: (i)providing the services, (ii) maintaining and using relevant IT systems, (iii) quality, risk and client management activities, (iv) providing the Beneficiary with information, including by means of electronic communication, about the Auditor, other PwC firms and our and/or their range of services, (v) disputes and litigation, (vi) confirmation of provision of services for the Beneficiary, and (vii) complying with any legal requirements or requirements of a professional body of which the Auditor or its staff are members. The Auditor will process personal data on paper as well as in electronic form, for as long as necessary to provide the services under the ToR, safeguard Auditor's rights and/or fulfil Auditor's obligations resulting from applicable laws, regulations or professional standards.
4. The Auditor may transfer personal data shared with the Auditor to other PwC firms, subcontractors and IT service providers in relation to any of the purposes set out in this Annex 1.6.5.A. Some of these recipients may be located outside the European Union. The Auditor will carry out such transfers only where the Auditor has a lawful basis to do so, including to a recipient who is: (i) in a country which provides an adequate level of protection for personal data; or (ii) under an instrument which covers the EU requirements for the transfer of personal data to data processors outside the EU.

### **Annex 1.6.6.A DISCLOSURE OF INFORMATION, THE REPORT AND THE TERM OF THE ToR**

1. Following the provisions 1. 4 of the ToR, the Auditor is not required to disclose (i) any information, records or other documents that are subject to Auditor's business secrets and not related to this assignment, (ii) any information, records or other documents that would place the Auditor in breach of its confidentiality obligations under relevant laws and professional rules.
2. The Report will be addressed to the Management of the Beneficiary. It is solely for their use and is not to be used for any other purpose or to be distributed to any other parties without Auditor's prior written consent which the Auditor may grant, withhold or grant subject to conditions including conditions as to an absence of legal liability. The Auditor agrees to a copy of the Report being made available (i) to the European Climate, Infrastructure and Environment Executive Agency (CINEA) subject to the conditions mentioned herein (ii) to Beneficiary's legal advisers on the basis that they receive our Report for information purposes only and the Auditor shall have no duty of care or liability to them, or (iii) as required by applicable law or regulation. Notwithstanding the preceding sentence, the Auditor does not accept any liability or responsibility to European Climate, Infrastructure and Environment Executive Agency (CINEA) or to any third party to whom the Report is shown or into whose hands it may come. The Auditor will not provide any comments or explanations to the European Climate, Infrastructure and Environment Executive Agency (CINEA) or any other third party with respect to this Report. In connection with the eventual disclosure of the Report to the European Climate, Infrastructure and Environment Executive Agency (CINEA), the Beneficiary expressly agrees and acknowledges the provisions of clause 2.3. of Auditor's Terms of Business, which forms Annex 1.6.6.B, which shall apply in full force and effect in respect to any third party claim in connection with, in relation to or arising out of the provision of the Report.
3. This ToR is concluded for a definite period, for the duration of the provision of services. Conditions of its termination and related matters are stipulated in the Auditor's Terms of Business which forms Annex 1.6.6.B, section 11.1 and 11.2.

Agreement number: INEA/CEF/TRAN/M2015/1131671  
Action number: 2015-SK-TM-0207-M

## **Annex 1.6.6.B TERMS OF BUSINESS**



**Annex 1.6.7.A** List of direct subcontractors

<b>No.</b>	<b>Name and surname / Company name or Title</b>	<b>Address of residence or registered office</b>	<b>Identification number or date of birth (if no identification number has been assigned)</b>	<b>Subject of subcontracting</b>	<b>Authorized person (name and surname, address of residence, date of birth)</b>

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# Terms of Business

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## 1 Introduction

- 1.1 **Terms** – These terms apply to the services you have engaged us to provide under the attached engagement letter. These terms together with the engagement letter form the entire agreement between you and us. If anything in these terms is inconsistent with the engagement letter, these terms take precedence, unless the engagement letter specifically amends any of them.
- 1.2 **Commencement** – The agreement will start on the earlier of (i) the date of the engagement letter; and (ii) the commencement of the services.

## 2 Services

- 2.1 **Services** – We will perform the services with reasonable skill and care. You confirm that the scope is sufficient for your purpose. The services (including deliverables) are provided solely for you for the purpose set out in the engagement letter or the relevant deliverable.
- 2.2 **Deliverables** – You may not disclose a deliverable or make the benefit of the services available to anyone else or refer to the contents of a deliverable or the findings of our work, except (i) as stated in the engagement letter, (ii) with our prior written consent on terms to be agreed, (iii) where required by law or regulation, or (iv) to your lawyers or group members as long as you tell them, in advance, that we accept no liability to them and that no onward disclosure may be made.

- 2.3 **Liability to you alone** – We accept no liability to anyone, other than you, in connection with our services and deliverables, unless otherwise agreed by us in writing. You agree to reimburse us for any liability (including legal costs) that we incur in connection with any claim by anyone else in relation to the services.
- 2.4 **Changes** – Either we or you may request a change to the services or the agreement. A change will be effective only when agreed in writing.
- 2.5 **Extent of services** – In performing the services, we will not be (i) carrying out an audit or other assurance engagement in accordance with applicable professional standards, or (ii) attempting to detect fraud or other wrongdoing.
- 2.6 **Oral advice and draft deliverables** – You may rely only on our final written deliverables and not on oral advice or draft deliverables. If you wish to rely on something we have said to you, please let us know so that we may prepare a written deliverable on which you can rely.
- 2.7 **Monitoring** – We shall not update our advice for any changes in law or regulations, or their interpretation, that occur after the date of the services provided.
- 2.8 **Deemed knowledge** – In performing the services we will not be deemed to have information from other services we or other PwC firms may have provided to you.

### 3 **Your responsibilities**

- 3.1 **Information** – In order for us to advise you properly you will make sure that (i) any information given to us by you, or anyone else working with or for you, is (a) given promptly, (b) accurate and (c) complete; and (ii) any assumptions are appropriate. We will not verify any information given to us relating to the services.
- 3.2 **Your obligations** – Our performance depends on you performing your obligations under the agreement. We are not liable for any loss arising from you not fulfilling your obligations.

### 4 **Fees**

- 4.1 **Payment for services** – You agree to pay us for our services. Any estimate we may give you is not binding.
- 4.2 **Basis of fees** – Our fees may reflect not only time spent, but also such factors as complexity, urgency, inherent risks, use of techniques, know-how and research together with the level of skills and expertise required of the personnel needed to perform and review the services. Our fees may include any time spent travelling for the purpose of the services that cannot be used productively for other purposes.
- 4.3 **Expenses** – You will pay any relevant expenses that we incur in connection with the services.
- 4.4 **Taxes** – You will also pay any taxes, including VAT, that are due in relation to our deliverables and services. You will pay us the full amount of any invoice, regardless of any deduction that you are required by law to make.
- 4.5 **Invoices and payment** – Unless otherwise provided in the engagement letter we may invoice you on a monthly basis. We can provide our services repeatedly, partially (in stages) or on a one-off basis. We will issue our invoices within 15 days from the day tax liability will arise in accordance with the VAT Act 222/2004 Coll. (depending on the type of service we will provide). The invoices should be paid within 14 calendar days of the date of the

invoice. If you do not pay an invoice on time we may charge you interest at the rate set by law.

### 5 **Confidentiality**

- 5.1 **Confidential information** – We and you agree to use each other's confidential information only in relation to the services, and not to disclose it without prior written consent, except i) where required by law or regulation or by a professional body of which we or our staff are members, or ii) to our legal advisors or insurers. However, we may give confidential information to other PwC firms or relevant subcontractors or service providers as long as they are bound by confidentiality obligations, and to your advisers who are involved in the relevant matter. Unless applicable law or regulation or rules of professional conduct of a professional body of which we or our staff are members provide otherwise, the obligations to keep the information received in connection with the agreement confidential shall remain in legal effect for three years after receipt of such information. The above will not apply to information which (i) is publicly available, or (ii) has been received from someone else who owes no duty of confidence in relation to it, or (iii) was already known by the receiving party.
- 5.2 **Referring to you and the services** – We and other PwC firms may wish to refer to you and the services we have performed for you when marketing our services, we and they may also wish to use your company logo when citing our experience in proposal documents. You agree that we and they may do so, as long as we do not disclose your confidential information.
- 5.3 **Performing services for others** – You agree that we may perform services for your competitors or other parties whose interests may conflict with yours, as long as we do not disclose your confidential information and we comply with our ethical obligations.
- 5.4 **Permitted disclosure** – You may disclose the tax (including social security) treatment and structure of any transaction included in our tax advice to any person, regardless of (i) any other clause in this or another agreement or (ii) confidentiality markings on communications. If you make such a disclosure to any person, you agree to (i)

provide us with (a) the name and address of the person to whom you have made the disclosure and (b) a description of the information and materials so disclosed and (ii) tell them that we accept no liability to them in relation to the information and materials unless we have agreed otherwise in writing.

## 6 ***Intellectual property rights***

Where there are any intellectual property objects in the deliverables we will own the intellectual property rights in the deliverables and any materials created under the agreement, and you will have a non-exclusive, non-transferable licence to use the deliverables for your own internal purposes.

## 7 ***Data protection***

7.1 **Compliance** - You and we will comply with applicable data protection legislation in relation to any personal data shared with us under the agreement.

7.2 **Personal data** – You will not provide us personal data unless the agreement requires the use of such personal data. You confirm that you have competence and necessary authorization from all relevant data subjects, as required under applicable data protection legislation, in order for us to use and disclose such personal data in accordance with the agreement and that such data subjects have been given necessary information regarding its use.

7.3 **Data processing** - We will process personal data received from you for the purposes of any of: (i) providing the services, (ii) maintaining and using relevant IT systems, (iii) quality, risk and client management activities, (iv) providing you with information, including by means of electronic communication, about us, other PwC firms and our and/or their range of services, (v) disputes and litigation, (vi) confirmation of provision of services for you, and (vii) complying with any legal requirements or requirements of a professional body of which we or our staff are members. We will process personal data on paper as well as in electronic form, for as long as necessary to provide the services under the agreement, safeguard our rights and/or fulfil our obligations

resulting from applicable laws, regulations or professional standards.

7.4 **Data processor** - Where we act as a data processor in relation to your personal data (such as: name, surname, e-mail, phone number of your employees, members of management, clients or suppliers), we will: (i) process it only on your lawful documented instructions; (ii) implement appropriate measures designed to ensure its security, including by imposing confidentiality obligations on relevant personnel; (iii) transfer it to sub-processors only under a written contract which imposes obligations equivalent to those in this clause 7.4 and you authorise us to transfer your personal data to them; (iv) provide you with reasonable assistance in carrying out any legally required data protection impact assessments, complying with the rights of data subjects and complying with your own data security obligations under applicable data protection legislation; (v) notify you without undue delay after becoming aware of a breach in respect of it; (vi) subject to clause 10.1, on your request either return or destroy it at the end of the engagement (except as required by applicable law or regulation); and (vii) on your written request, provide you with reasonable information necessary to demonstrate our compliance with this clause 7.4, which may include any available third party security audit reports.

7.5 **Data transfers** - We may transfer personal data shared with us to other PwC firms, subcontractors and IT service providers in relation to any of the purposes set out in clause 7. Some of these recipients may be located outside the European Union. We will carry out such transfers only where we have a lawful basis to do so, including to a recipient who is: (i) in a country which provides an adequate level of protection for personal data; or (ii) under an instrument which covers the EU requirements for the transfer of personal data to data processors outside the EU.

## 8 ***Liability***

8.1 **Specific types of loss** – You agree that we will not be liable for (i) loss or corruption of data from systems, (ii) loss of profit, goodwill, business opportunity,

anticipated savings or benefits or (iii) indirect or consequential loss.

- 8.2 **Our liability** – You agree that we will be liable only when we are at fault for our actions or omissions. Our total liability (including interest) for all claims connected with the services or the agreement is limited to twice the fees payable for the services or the actual damages whichever is the lesser. It is agreed that our fees have been determined in consideration of, and reflect, the limitations set forth in this clause.
- 8.3 **Sharing of limit** – Where we agree in writing to accept liability to more than one party, the limit on our liability in clause 8.2 will be shared between them, and it is up to those parties how they share it.
- 8.4 **No claims against individuals** – You agree to bring any claim in connection with the services only against us, and not against any individual, however described.

## 9 *PwC firms and subcontractors*

- 9.1 **Subcontractors** – We may use other PwC firms (each of which is a separate and independent legal entity) or subcontractors to provide the services. We remain solely responsible for the services.
- 9.2 **Restriction on claims** – You agree not to bring any claim against another PwC firm (or its partners, members, directors or employees) or subcontractors.
- 9.3 **Group members** – You will ensure that no group member including your subsidiaries, associated companies and holding company (unless a party to the agreement), both while they are a group member and thereafter, brings any claim against any PwC firm (or its partners, members, directors or employees) or subcontractors in respect of any liability relating to the services or the agreement.

## 10 *Materials*

- 10.1 **Policy** – We may retain copies of all materials relevant to the services, including any materials given to us by you or on your behalf.

- 10.2 **Release** – We will not release materials which belong to us (including our working papers) unless we have specifically agreed to do so. We may require a release letter from the recipient as a condition of disclosure.

## 11 *Termination*

- 11.1 **Immediate notice** – Either we or you may end the agreement immediately by giving written notice to the other if (i) the other materially breaches it and does not remedy the breach within five business days upon receipt of a notice, (ii) the other is or appears likely to be unable to pay its debts or becomes insolvent or (iii) the performance of it (including the application of any fee arrangements) may breach a legal or regulatory requirement.
- 11.2 **30 days' notice** – Either we or you may end the agreement on 30 calendar days' written notice.
- 11.3 **Fees payable on termination** – You agree to pay us for all services we perform up to the date of termination. Where there is a fixed fee for services, you agree to pay us for the services that we have performed on the basis of the time spent at our then current hourly rates, up to the amount of the fixed fee. Any contingent element of the fees will remain payable in accordance with the engagement letter. If a contingent fee cannot be paid for regulatory reasons, you agree to pay all outstanding fees on the basis of time spent, unless alternative arrangements have been agreed.

## 12 *Dispute resolution*

- 12.1 **Negotiation** – If a dispute arises, the parties will attempt to resolve it by discussion and negotiation before commencing legal proceedings.
- 12.2 **Law and jurisdiction** – Slovak law will govern the agreement. The Slovak courts will have exclusive jurisdiction over any dispute, whether contractual or non-contractual.
- 12.3 **Limitation period** – Unless applicable law provides otherwise, any claims must be brought no later than four years from the date when the right could be exercised for the first time.

## 13 General

- 13.1 **Matters beyond reasonable control** – No party will be liable to another if it fails to meet its obligations due to matters beyond its reasonable control.
- 13.2 **Entire agreement** – The agreement forms the entire agreement between the parties in relation to the services. It replaces any earlier agreements, representations or discussions. No party is liable to any other party (whether for negligence or otherwise) for a representation that is not in the agreement.
- 13.3 **Your actions** – Where you consist of more than one party, an act or omission of one party will be regarded as an act or omission of all.
- 13.4 **Assignment** – Unless the agreement expressly provides otherwise, no party may assign, transfer or deal with their rights or obligations under the agreement without the prior written consent of the other party, except (i) we may assign any debts to another party for collection, and (ii) we may novate the agreement to a transferee of all or part of our business. Any assignment without the prior written consent (except as provided above) shall be null and void.
- 13.5 **Survival** - The provisions of the agreement which expressly or by

implication are intended to survive its termination or expiry will survive and continue to bind each of the parties including, but not limited to, 2.2., 2.3, 2.4, 2.6, 2.7, 4, 5, 6, 7, 8, 9, 11.3, 12, 13 and 14.

- 13.6 During the period of the agreement and within 6 months of its termination or completion neither of us will employ any of respective employees involved in providing or receiving the services.

## 14 Interpretation

In this agreement the following words and expressions have the meanings given to them below:

**PwC firm** – any entity or partnership within the worldwide network of PricewaterhouseCoopers firms and entities;

**services** – the services set out in the engagement letter;

**deliverables** – any works, programs, or documents (in whatever form) we provide to you from time to time;

**the agreement** – these terms, any agreed service specific terms and the engagement letter to which they relate;

**we, us or our** – refers to PricewaterhouseCoopers Slovensko, s.r.o., whose registered office is at Karadžičova 2, 815 32 Bratislava, Slovakia;

**you, your** – the party or parties to this agreement (excluding us).