



Basic information on financial issues in H2020: what do I need to know for drafting a consortium agreement?

Alexandre Marques
NCP Legal and Financial Portugal

GPPQ

ANI(National Innovation Agency)/FCT (Foundation for Science and Technology), Ministry of Education and Science

Berlin 28th June



- **LEGAL FRAMEWORK**
- **GRANT AGREEMENT**
- **CONSORTIUM AGREEMENT**
- **FINANCIAL ISSUES**
- **IPR**

European Union flag logo

NCP ACADEMY
Training National Contact Points

Legal Framework

European Union flag logo

Consortium Agreement Legal Framework

NCP ACADEMY
Training National Contact Points

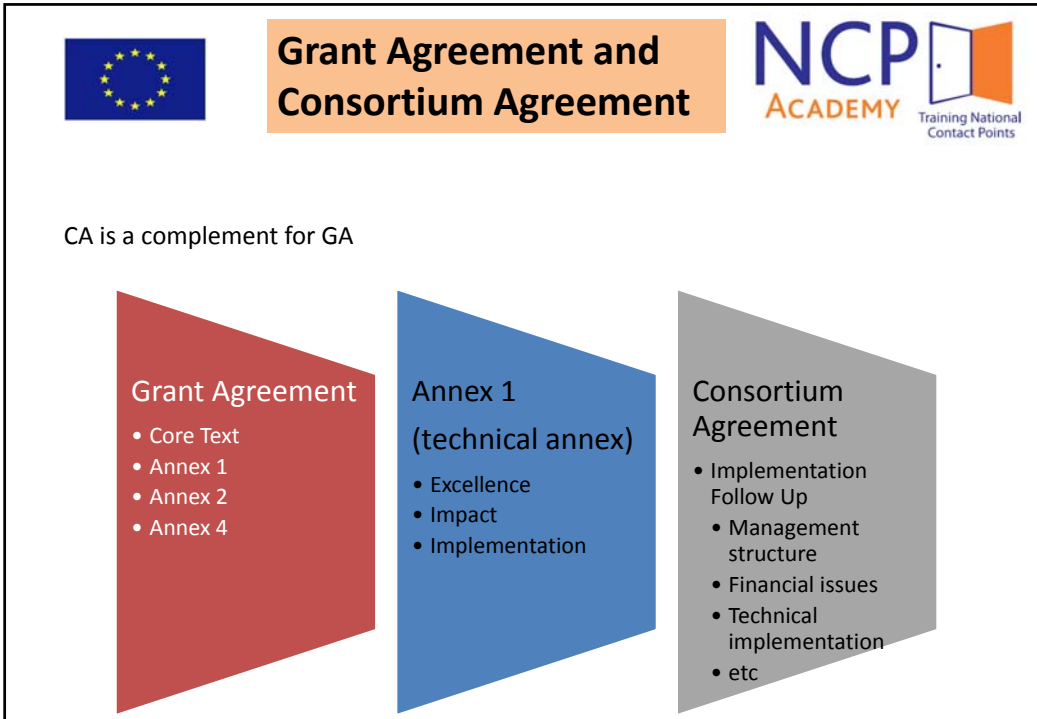
Financial Regulation – [Reg. 966/2012 de 25 de outubro](#)

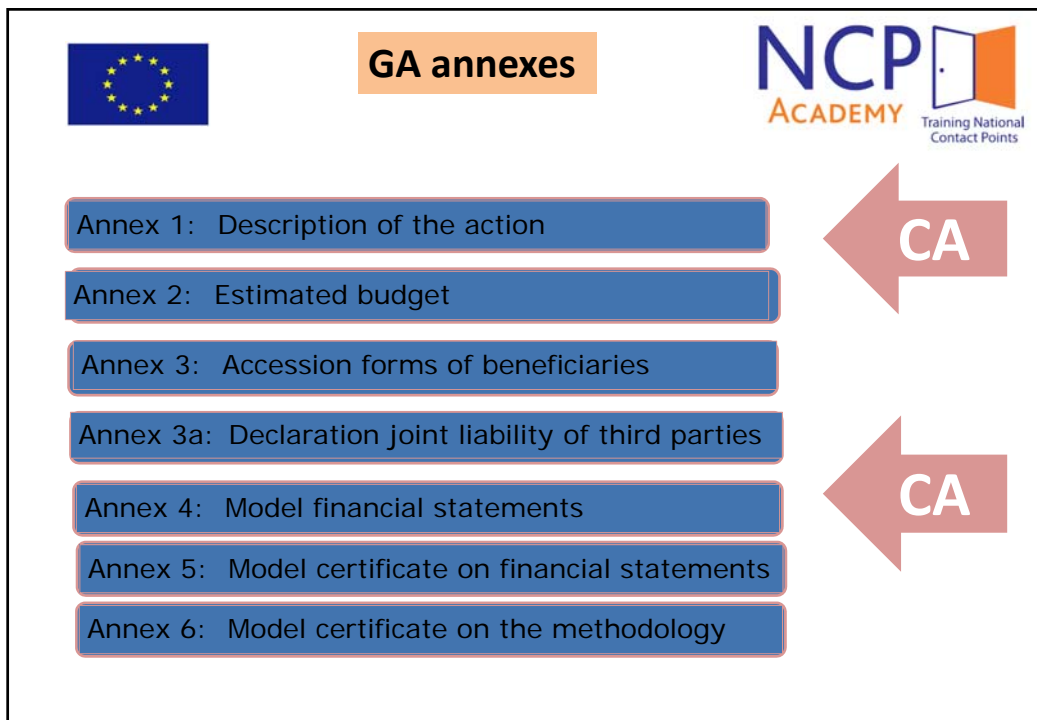
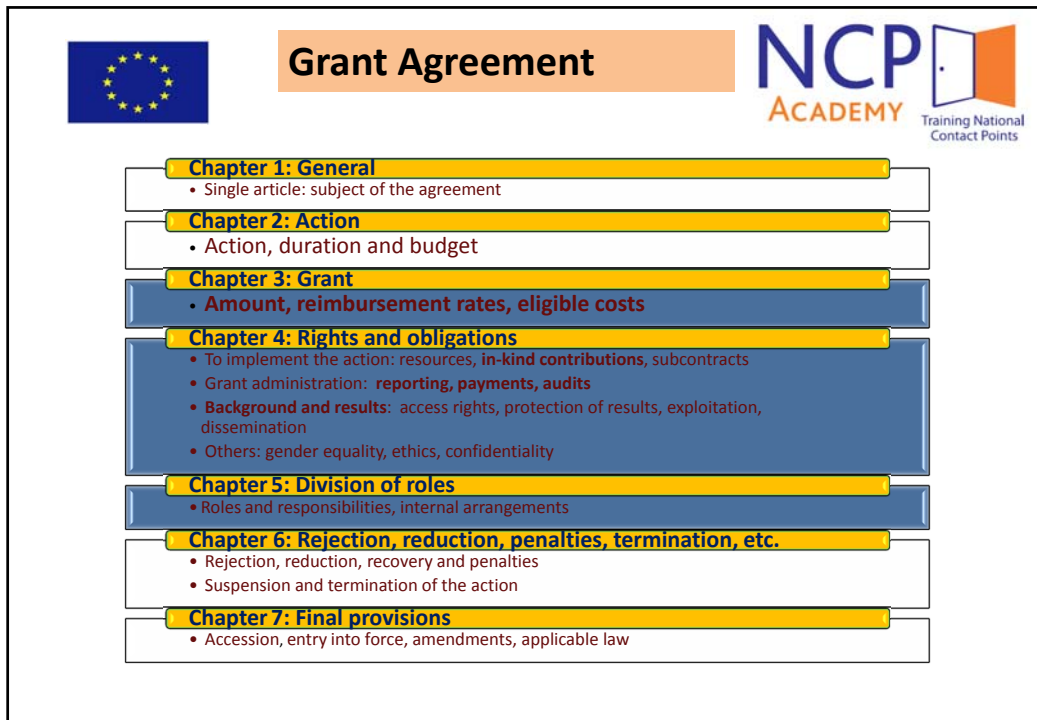
Rules for Participation – [Reg. 1290/2013 de 11 de dezembro](#)


Work Programme

The diagram illustrates the legal framework for a consortium agreement. It features a central grey oval containing a 'Coordinator' box and four 'Partner' boxes (Partner 1, Partner 2, Partner 3, Partner 4) arranged around it. This central area is enclosed within a larger red oval. The text 'Grant Agreement' is written along the top-left curve of the red oval, and 'Consortium Agreement' is written along the bottom-left curve. To the right of the red oval, a vertical red bar is labeled 'Other parties'. Two blue double-headed arrows connect the 'Other parties' bar to the central area, labeled 'Subcontract' and 'Licences'. At the bottom right of the diagram, the text 'NDA Confidentiality Agreement Etc' is displayed.


NDA
Confidentiality Agreement
Etc







Grant Agreement – Financial issues on the Core text



Budget

Article 4 — Estimated Budget And Budget Transfers.
 4.1 Estimated budget.
 4.2 Budget transfers

Grant


Article 5-grant amount, form of grant, reimbursement rates and forms of costs


Eligible Costs

Article 6 - Eligible and Ineligible costs


Reporting and Payments

Article 18 — Keeping Records — Supporting Documentation
 Article 19 — Submission Of Deliverables
 Article 20 — Reporting — payment requests
 Article 21 — Payments and payment arrangements





Consortium Agreement



ARTICLE 41 — DIVISION OF BENEFICIARIES’ ROLES AND RESPONSIBILITIES


41.1 Roles and responsibilities towards the EC/REA/EASME

41.2 Internal division of roles and responsibilities ← Starting point


41.3 Internal arrangements between beneficiaries — Consortium agreement

Internal organisation of the consortium;
Management of access to the electronic exchange system;
Distribution of EU funding;
Additional rules on rights and obligations related to background and results
Settlement of internal disputes;
Liability, indemnification and confidentiality arrangements between the beneficiaries.

The consortium agreement must not contain any provision contrary to the Agreement.




Annex 1 – Description of the action

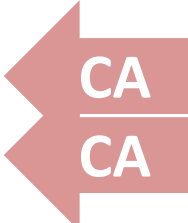


1. Excellence

2. Impact
 - 2.1 Expected impacts
 - 2.2 Measures to maximise impact
 - a) Dissemination and **exploitation of results**
 - b) Communication activities

3. Implementation
 - 3.1 Work plan —Work packages, deliverables
 - 3.2 **Management structure, milestones and procedures**
 - 3.3 Consortium as a whole
 - 3.4 Resources to be committed

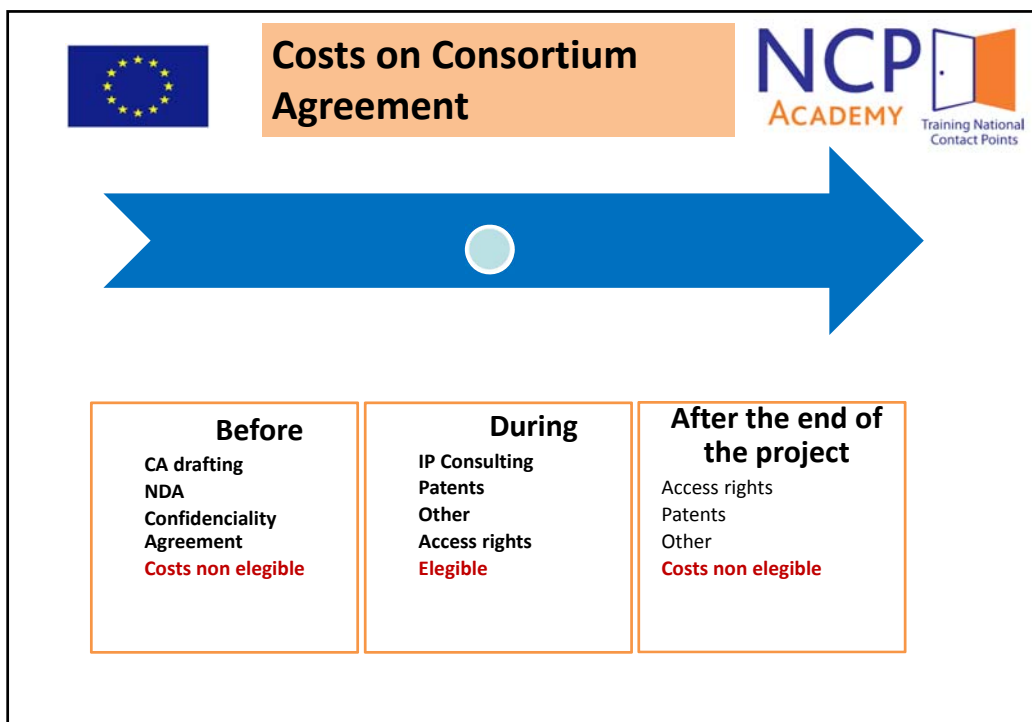









Consortium agreement



Liability - Technical responsibility

Article 41.1
The beneficiaries **are jointly and severally liable for the technical implementation of the action as described in Annex 1**. If a beneficiary fails to implement its part of the action, the other beneficiaries become responsible for implementing this part (without being entitled to additional funding)

Article 5.2 (*):
A Party's aggregate liability towards the other Parties **collectively shall be limited to Insert: once or twice the Party's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.**

The EU funding belongs to the Commission until the final payment

(*) DESCA version 1.2 March 2016



Liability - Financial Responsibility



Guarantee Fund


Article – 21.2 Pre-financing payment —Amount —Amount retained
for the Guarantee Fund (GA)

Partners are not liable each other on financial terms


Important on case of bankruptcy



Financial Issues




Financial provisions - article 7




The financial contribution of the Funding Authority to the Project shall be distributed by the Coordinator according to:

- the **Consortium Plan** Annex 1 and 2
- the **approval of reports** by the Funding Authority, and Interim and Final reports
- the **provisions of payment in Section 7.3.** Payments schedule


7.1.2 Justifying Costs
In accordance with own usual accounting and management principles and practices,



Article 6 (GA)
..in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary's usual cost accounting practices;.




Financial issues



7.1.3 Funding Principles
A Party that spends less than its allocated share of the budget as set out in the Consortium Plan...will be funded in accordance with its actual duly justified eligible costs only.

7.1.4.1 In any case of a Party having received excess payments, the Party has to return the relevant amount to the Coordinator without undue delay.



4.2 Budget transfers (GA)
The estimated budget breakdown indicated in Annex 2 may be adjusted —**without an amendment** (see Article 55) —by **transfers of amounts between beneficiaries, budget categories** and/or forms of costs set out in Annex 2, if the action is implemented as described in Annex 1.



Receipts



Art. 7.1.4 Return of excess payments; receipts

Examples

- Conference fees
- Equipment sold
- Etc

Receipts generated by one beneficiary **may result in a reduction of the grant due to the application of the non-profit rule** (see Article 5.3.3 of the H2020 model Grant Agreement).



Financial provisions - payments



21.7 Payments to the coordinator — Distribution to the beneficiaries


Payments to the coordinator will discharge the [Commission][Agency] from its payment obligation. The coordinator must distribute the payments between the beneficiaries **without unjustified delay.**




7.3.1 Payments to Parties are the exclusive tasks of the Coordinator.


The Coordinator shall:

- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account
- perform diligently its tasks in the proper administration




Financial provisions - payment schedule






The Coordinator should define a payment strategy according to the **Gant Chart and to the funding availability**

The payment schedule, which contains the **transfer of pre-financing and interim payments** to Parties, will be handled according to the **decisions of the General Assembly**





Payment Example





...partners should always receive enough contribution to **be able to carry out their work** as foreseen without having to do advance payments themselves.

Grant	Guarantee Fund	Pre-Financing	Coordinator Withhold (art. 7.3.2)	Available for distribution	Available per partner
100.00	5.00	42.50	4.25	38.25	9.56
	Final Payment				Available for the Coordinator
	10.00				13.81

Intellectual Property Rights

Access Rights

During and after the end of the project

	Background	Results
Needed to carry out the project ("Implementation")	Royalty-free, unless otherwise agreed before the Grant Agreement is signed	Royalty-free
Needed to exploit own project results (further R&D and commercialisation)	Fair and reasonable conditions	Fair and reasonable conditions



Intellectual Property Rights Fair and reasonable conditions



Means appropriate conditions, including **possible financial terms** or **royalty-free conditions**, taking into account the specific circumstances of the request for access, for example the **actual or potential value** of the Results or Background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.



Intellectual Property Rights Open Access



Article 29.2 Open access to scientific publications

Each beneficiary must ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results

Self-archiving (also called '**Green'open access**) means that the published article or the final peer-reviewed manuscript is archived by the researcher – or a representative - in an **online repository before**, after or alongside its publication. Access to the article is often – **but not necessarily - delayed** ('embargo period') as some scientific publishers may wish to recoup their investment by selling subscriptions and charging pay-per-download:view fees during an exclusivity period

Open access publishing (also called '**Gold'open access**) means that an article is immediately provided in open access mode by the scientific publisher. **The associated costs are shifted away from readers**, and instead to (for example) the university or research institute to which the researcher is affiliated, or to the funding agency supporting the research.



Intellectual Property Rights Examples of costs



- Consulting fees
- Fees paid to the patent office for patent registration
- IP Attorney fees
- Royalties paid for IP access rights
- Freedom to operate study – if foreseen on annex 1



Contacts



Questões legais e financeiras | Cap. Risco
Apoio a PME | Fast Track
EIT



Alexandre Marques

✉ alexandre.marques@gppq.pt

☎ +351 96 001 90 66

<http://www.gppq.fct.pt/h2020/>