



Fuel Cells and Hydrogen Joint Undertaking (FCH JU)

Amendments Guide for FCH JU Grant Agreements

Collaborative Projects Coordination and Support Actions

Disclaimer

These guidance notes are aimed at assisting beneficiaries. It is provided for information purposes only and its contents are not intended to replace consultation of any applicable legal sources or the necessary advice of a legal expert, where appropriate. Neither the FCH JU nor any person acting on its behalf can be held responsible for the use made of these guidance notes.

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1. HOW TO READ THESE GUIDELINES

In the course of a project, it may be necessary to introduce changes in the grant agreement to fix the rights and obligations of the participants, the FCH JU and third parties.

While the grant agreement clearly explains what can be modified and how, the FCH JU considers that it might be useful to provide further guidance with these guidelines.

The guidelines start with a short chapter on the "amendment essentials" that we strongly recommend you to read.

As you will see, there are changes requiring a formal amendment of the GA while others only require an exchange of information through a simplified procedure. The guidelines include a chapter for each category of changes. The main Chapter (Chapter 3) deals with changes that require an Amendment. It starts with a description of the common elements of procedure (section 3.1) that you may think useful to read in addition to the "amendment essentials". Then it includes a description of each of the most frequent changes in the grant agreement together with a list of documents necessary to justify the amendment (section 3.2). Here we recommend that you go immediately to the paragraph that corresponds to the change you plan to request. Chapter 3 also includes models letters corresponding to all the amendment cases (section 3.3). Participants are highly recommended to use them.

In all cases, it is highly recommended that before a change is formally requested, the coordinator and the FCH JU Programme Office discuss the points that they would like to modify and the conditions for the modification. This can save precious time and resources and will ensure that the formal amendment request is complete and accompanied by all required documents.

We hope these guidelines will prove to be useful to you.

The Programme Office

2. AMENDMENTS ESSENTIALS

1. What is An Amendment?

An amendment to a grant agreement (GA) is a legal act modifying the commitments initially accepted by the parties, which may create new rights or impose new obligations on them, or modify significant parts of the GA. It allows the parties to change the GA during its lifetime.

2. When is an amendment necessary and possible?

- As a general rule, an amendment is necessary when the terms of the GA need to be modified.
- This is typically the case for any change of the data included in the Core part of the GA, and for changes of Annex I.
- No changes can be made to any of the Standard annexes (Annex II and III) as these Annexes were approved by the FCH JU management and Governing Board.
- An amendment shall comply with the rules applicable to the GA (Regulation 521/2008 setting up the FCH JU and the FCH JU financial rules).
- An amendment shall not have the purpose or the effect of making changes to the GA which might change the original Call for Proposals and thus question the decision awarding the grant, or result in unequal treatment of the beneficiaries.
- In most of the cases, an amendment can only be implemented after the entry into force of the GA and before the final payment is made.

3. How to implement an amendment?

- An amendment can only be done in writing – an oral agreement is not binding for the parties.
- The amendment is effected through an exchange of letters:
 - o a letter-request from the party asking for an amendment – be it FCH JU, or the coordinator on behalf of the consortium,
 - o a response letter of acceptance of the amendment (by the FCH JU, or the coordinator on behalf of the consortium). An exception is the case of tacit approval of the amendment of Article II.36.2.
 - o The two letters together form the amendment. Their content must clearly demonstrate the agreement of the parties.
- On the consortium side, the letter must be signed by the LEAR (Legal Entity Appointed Representative) of the coordinator on behalf of the consortium.
- The request for amendment shall be complete and shall be accompanied by all relevant supporting documents justifying the modifications proposed.

- It is highly recommended that before the amendment is formally requested, the coordinator on behalf of the beneficiaries and the FCH JU Programme Office discuss the points that they would like to modify and the conditions for the modification. This can save precious time and resources and will ensure that the formal amendment request is complete and accompanied by all required documents.

4. Changes in the Grant agreement that do not require an amendment

- The GA may be affected by other types of changes which do not constitute an amendment, but which must be communicated to the consortium, or to the FCH JU through an information procedure. During the information procedure the parties inform each other about usually formal circumstances which fall outside of the management control and do not affect the terms of the agreement reached, therefore do not require an amendment – yet they change the GA in which a given beneficiary participates.
- In some cases the GA terms provide for changes to be introduced by the parties without changing the GA. A typical case is the budget transfer described in Article 5.2.
- In some cases the change may be presented as a change of name or details, BUT may in fact go beyond this and may require an amendment. In case of doubt about the nature of the change, before initiating an amendment request all beneficiaries are strongly encouraged to contact informally for advice the FCH JU officer (s) in charge of the project.

3. CHANGES THAT REQUIRE AN AMENDMENT

As a general rule, an amendment is necessary when the terms of the GA need to be modified.

This is typically the case for any change of the data included in the Core part of the GA, and for changes of Annex I. No changes can be made to any of the Standard annexes (Annex II and III) as these Annexes were approved by the FCH JU management and Governing Board.

In some cases the GA terms provide for changes to be introduced by the parties without changing the GA. A typical case is the budget transfer described in Article 5.2:

(...) "Beneficiaries are allowed to transfer budget between different activities and between themselves in so far as the work is carried out as foreseen in Annex I".

In other cases, the GA explicitly states that a written amendment is needed, like in Article II.8.5 on the lifting of the suspension of the whole or a part of the project:

"The suspension of the whole or a part of the project may be lifted once the parties to the grant agreement have agreed on the continuation of the project and, as appropriate, any necessary modification, including extension of the duration of the project, has been identified by means of a written amendment".

Finally, there are cases where the need for an amendment must be assessed carefully. For example, an amendment is not needed in the case of a change of name or legal details of a beneficiary that does not imply a change of legal entity. This is not considered an amendment to the agreement. In this case the respective beneficiary (not the coordinator) shall notify the changes to the validation service of the Commission via the Unique Registration Facility (URF) and shall attach the relevant supporting documents. The Commission and FCH JU shall enter the information in their IT system(s) and shall then send an acknowledgement to the coordinator and to the beneficiary concerned to inform that note has been taken of the change and that the Commission and FCH JU database has been updated accordingly. For more information on this, see Chapter 4 of this guide.

In some cases the change may be presented as a change of name or details, BUT may in fact go beyond this and may require an amendment. In case of doubt about the nature of the change, before initiating an Amendment request all beneficiaries are encouraged to contact informally for advice the FCH JU officer (s) in charge of the project.

Example: Company A is a beneficiary in Project X, sells its mobile phone business to company B; even if the same people, research units, etc. continue working in the project: this is not a simple change of name and the change of ownership requires an amendment to the GA.

3.1 Common elements of procedures (Art. II.35 & 36 of the GA)

3.1.1 Who shall submit the request for Amendment (Art. II.35.1 & 2 of GA)

Article II.35 - Requests for amendments and termination at the initiative of the consortium.

*1. Amendments to this grant agreement may be requested by any of the parties. Requests for amendments and termination shall be signed by the legal representative of the parties and submitted in accordance with Article 8. Any request or acceptance by the consortium or the beneficiary(ies) **shall be submitted by the coordinator**. The coordinator is deemed to act on behalf of all beneficiaries when signing a request, an acceptance or rejection letter concerning an amendment as well as when requesting a termination. The coordinator shall ensure that adequate proof of the consortium's agreement to such an amendment or termination exists and is made available in the event of an audit or upon request of the FCH JU.*

2. In the case of change of coordinator without its agreement, the request shall be submitted by all other beneficiaries or by one of them representing the others.

The parties to the GA are, on the one hand, the FCH JU, and on the other hand, the beneficiaries. The initiative to amend the GA is in most cases taken by the consortium.

However, the FCH JU can also propose an amendment e.g. in case of errors to be rectified, or in the case where modifications of Annex I are needed following a project review. This is also the case when the FCH JU submits a "counter-proposal" to a request by the consortium when it does not completely agree with it. For more information on this see paragraph 3.1.4.

Note that for the purposes of the GA the beneficiaries are represented by the Coordinator.

The coordinator is given a prominent role in the GA, being the intermediary between the consortium and the FCH JU. The coordinator is in charge of submitting any request of amendment on the part of the consortium as a whole, or at the initiative of one or several beneficiary(ies) and is deemed to act on behalf of all beneficiaries when signing a request, an acceptance or rejection letter concerning an amendment. Any amendment request, acceptance or rejection letter signed by the coordinator shall commit the consortium to it. The FCH JU does not have the responsibility to verify the agreement of all beneficiaries.

However, according to Article II.35.1, the coordinator has to ensure that adequate proof of the consortium's agreement to such an amendment exists and is available in the event of an audit, or upon the request of the FCH JU. This means that the proof of the agreement of the beneficiaries must exist even if such proof is not required to be submitted together with the request for amendment. This evidence of agreement does not need to be in the form of official letter; e-mails or minutes of a project meeting would suffice.

The written request should clearly indicate that the modifications are requested in accordance with Article II.35 of the GA, and should explicitly state that they are made on behalf of the consortium. However, should the coordinator not include this reference, the FCH JU cannot reject the request on this ground.

Only in the specific case of a change of coordinator without its agreement can beneficiaries submit an amendment request (all of them or one representing the rest of them, in accordance with Article II.35.2).

Who signs?

The legally authorised representative of the parties will sign the amendment (either the request or the acceptance letter).

- For the FCH JU, the Authorising Officer.
- For the beneficiaries, the legal representative of the coordinator (LEAR, as mentioned in the first page of the GA), on behalf of the consortium. Should the legally authorised representative of the coordinator have changed, it shall notify the FCH JU of this change (Article II.3.f).

If the coordinator is to be changed without its agreement, the rest of beneficiaries or one representing the rest of the consortium have to sign the amendment.

3.1.2 Who to Submit to? (Art. 8 and II.35)

The request must be submitted in accordance with Article 8.1 of the GA:

"1. Any communication or request concerning the grant agreement shall identify the grant agreement number, the nature and details of the request or communication and be submitted to the following addresses:

For the FCH JU: FCH Joint Undertaking

[name]

[address]

Belgium

For the coordinator: [name of contact person]

[contact address]

3.1.3 Time limit to initiate the amendment request

Amendment requests can only be introduced during the lifetime of the GA, i.e. after its entry into force and before the final payment.

Even if there is no time limit mentioned in the GA, amendment requests of the consortium should be introduced before the end of the project, in particular when extension of the duration of the project or changes to Annex I are requested. However, for final payment obligations the request could be done after the end of the project (e.g. changes in bank account, merger of the coordinator...).

As a general rule amendment requests should be submitted sufficiently in advance in order to allow time for analysis and decision in response to the request.

3.1.4 What happens when the FCH JU receives the request?

- a) The FCH JU can either accept the request by sending an acceptance letter, or reject it by means of a letter of rejection.
- b) If the FCH JU does not reply within 45 day, the absence of a reply is considered a rejection (except in the case of Article II.36.2); therefore, if there is no reply, coordinators are advised to contact again the FCH JU at the end of this period (see paragraphs 3.1.4 and 3.1.5)
- c) If the FCH JU agrees in principle to the proposed changes, but cannot agree with the form of request as proposed by the consortium, the FCH JU will reject this request and:
 - Suggest that the consortium submits a new request.
 - Or, it may, depending on the circumstances, propose in turn another amendment to the coordinator by means of another (amendment) letter. This proposal will be conditional on the coordinator's acceptance of the FCH JU counter-proposal within 45 days of reception, after which date the FCH JU offer will expire.

Example: Consortium sends an amendment request asking for the accession of a new partner and a 10-month extension of the duration of the project; The FCH JU sends a letter rejecting the request and proposing the accession of the new partner and a 2-month extension. Another example of a FCH JU counter-proposal can be found in paragraph 3.1.7 of this guide.

In this case the amendment would enter into force only after the signature of the legal representative of the coordinator (and not of the FCH JU, as the JU in this case submits a request). In this particular case, two conditions are necessary for the amendment to enter into force:

1. The coordinator must explicitly agree with the FCH JU proposal within 45 days of its reception (otherwise, there will be tacit rejection).
2. The FCH JU receives the letter from the coordinator accepting the terms proposed within 45 days (proved by post or any other means) after receipt by the coordinator of the FCH JU proposing the final text of the amendment.

The consortium shall accept the content of the FCH JU offer in full; in case of disagreement with part of its contents, the offer will expire. The consortium may in any case submit a new request.

The date on which the amendment will take effect will be fixed in the letter by the FCH JU, in order to avoid uncertainty; if the offer is accepted by the consortium that date will be considered mutually agreed and accepted by both parties, in accordance with Article II.36.4 (see below, paragraphs 3.1.6 and 3.1.7).

The procedure described above also applies when the FCH JU initiates an amendment.

3.1.5 When is the amendment to be approved or rejected?

The GA states that the parties undertake to approve or reject the amendment request within 45 (calendar) days of its receipt. Thus, the rule and the good practice indicate that both parties are required to explicitly reply to the request. If for any reason the parties do not

reply, the principle is tacit rejection – in the absence of a response within 45 days of receipt of the amendment request, it is considered rejected.

However, the FCH JU, on a case per case basis and upon verification that the request is still valid, may accept the original request even after the 45 days limit. In this case the FCH JU shall first receive confirmation from the contact person of the coordinator that the request is still valid.

The time limit starts on the date of receipt as indicated by the FCH JU postal service's signature on the acknowledgement form, if any.

Even though the 45-day period begins only when the FCH JU has received a valid request (see paragraph 3.1.5 above), if a document is missing or not signed or the request is deficient in any way, the FCH JU may bear the burden of proving that the request was invalid. For the sake of expediency and good cooperation, the FCH JU shall review the request for completeness and validity as per the terms of Art. II.35 immediately upon receipt

This is essential in the case of tacit agreement, where the only reason to reject a request after the 45 days would be its absence of validity. If a request is invalid, the FCH JU has to indicate it in writing to the coordinator stating that the request does not fulfil the conditions of the GA and give the reasons for this. (This applies only to documents sent by coordinators with a clear indication that they constitute a request to amend the GA). The communication from the FCH JU should be in writing.

3.1.6 Tacit approval

Article II.36.2 is an exception to the "negative silence" rule, which means that in case of no response, the request for amendment is rejected. Only in the case when the consortium requests the **addition or the termination of the participation of a beneficiary**, and the request is valid (see above paragraph 3.1.1), the "silence" of the FCH JU within the 30-day period is considered as positive sign and constitutes tacit approval (unless the exceptions mentioned in the same article apply – i.e incomplete request...).

If the request is not valid, there is no tacit approval. Then the FCH JU shall inform the coordinator about the incompleteness and invalidity of the request in due time.

If the FCH JU does not object during the 30-day period, it is deemed to have approved the request on the last day of the time-limit. Then, the FCH JU shall send a letter for information purposes to the coordinator (with a copy to the beneficiary concerned) according to the model provided in section 3.3 of this guide. This letter shall be sent as soon as possible and shall explicitly mention acceptance of the request.

There are three cases of changes in the consortium (addition & termination) where the GA states that explicit written approval by the FCH JU is always necessary:

- When the beneficiary concerned by the termination of participation does not agree with the request;
- In cases of appointment of a new coordinator;
- When the request for addition or removal of a beneficiary is linked with requests for other modifications to the GA which are not directly related to the addition or removal of a beneficiary.

3.1.7 Approval of request including more than one modification to the GA

Article II.35

3. A request for amendment including more than one modification to the agreement shall be considered a package that cannot be separated into several requests and shall be approved or rejected by the other party as a whole, except where the request explicitly states that it contains separate requests that can be approved independently.

Article II.36.2, last paragraph

Where the request for the addition or removal of a beneficiary is associated with requests for other modifications to the grant agreement which are not directly related to this addition or removal, the whole request shall be subject to written approval by the FCH JU.

In practice coordinators often combine various modifications to the GA (e.g. extension of project duration, modification of responsibilities for work packages etc) in one amendment request. The general principle is that when the request includes more than one type of modification to the GA it must be considered as a package that cannot be separated into several requests. Therefore, the FCH JU cannot accept some of the modifications proposed and reject others. The whole package shall be reviewed and explicitly approved or rejected in its entirety.

Nevertheless, when the amendment request explicitly states that it contains separate requests that can be approved independently each request can be treated separately.

If an amendment request combines modifications subject to an explicit approval with modifications relating to the consortium composition, which are normally the subject of tacit approval, the whole request needs the explicit approval of the FCH JU.

The tacit approval procedure only applies for requests related to the addition or termination of beneficiaries associated with requests for other modifications to the GA which are directly related to the addition or termination (e.g. request combined with the related changes to Annex I). Here tacit approval applies if changes to Annex I are limited to the transfer of tasks from one partner to another and not changes in the tasks themselves).

3.1.8 "Entry into force"

"Entry into force" refers to the date upon which the amendment has legal force and effect.

The amendment request will only enter into force upon signature by the parties (the FCH JU and the coordinator on behalf of the consortium).

Article 11: Entry into force of the Grant Agreement

This Grant Agreement shall enter into force after its signature by the coordinator and the Commission, on the day of the last signature.

When the consortium sends the request, the amendment enters into force on the date of the FCH JU's signature. The amendment being a modification to the GA, its entry into force follows Article 11 of the GA.

When the FCH JU sends the request, it will enter into force on the date of the signature by the coordinator, and is subject to the conditions set out in the letter sent by the FCH JU.

When the approval is tacit, the amendment enters into force on the 30th day after the receipt of the request. Then the FCH JU shall send a letter for information purposes to the coordinator.

3.1.9 "Taking effect"

"Taking effect" means the date from which the action/effects described in the amendment apply. The GA stipulates:

Article II.36.4

4. Amendments and terminations shall take effect on the date agreed by the parties; where there is no date specified they shall take effect on the date of the FCH JU's approval.

This date may be the same as the one of entry into force (i.e. if there is no specific date agreed and the FCH JU signs last). However, if the amendment request specifies a date(s) on which the whole amendment or one of the individual modifications requested takes effect, and the amendment is accepted by the other party, it will take effect on that date(s). In the cases where the FCH JU initiates the amendment, the letter include a date from which the amendment takes effect. The acceptance of the FCH JU's offer by the consortium will imply the acceptance of this date. It could also include an indication that the parties have agreed that it will take effect on the date of the signature by the coordinator's legal representative.

Examples:

1. The FCH JU approves on 12/09/2010 an amendment requested on 01/08/2010 to add a new beneficiary in the GA. The consortium requests that this addition takes effect from 01/07/2010.

This amendment enters into force on 12/09/2010 (date of signature by the FCH JU) but following the FCH JU acceptance, the addition will take effect as from 01/07/2010, and costs incurred by that new beneficiary will be eligible as from that date. This is possible because the request specified a date. If the consortium's request had not included a fixed date, the amendment would take effect from the date of the FCH JU's signature (12/09/2010), in other words, the same date as the entry into force.

2. Alternatively, the FCH JU may not agree with the date proposed by the consortium and on 10/09/2010 (i.e. before the 45 calendar days limit) sends a counter-proposal fixing the date of incorporation on 01/09/2010. The proposal of the FCH JU indicates that it will expire if it has not received an acceptance letter from the coordinator within 45 days of the reception of the letter. Following this, the FCH JU receives the acceptance letter on 15/10/2010, signed by the coordinator's legal representative on 07/10/2010.

In this last case, the amendment will enter into force on the date of the signature by the coordinator's legal representative (07/10/2010), but it will take effect from the 01/09/2010.

3. Tacit approval: The FCH JU receives on 01/08/2010 a request for amendment to add a new beneficiary in the GA. The consortium requests that this addition takes effect from 01/07/2010. The request is valid but the FCH JU does not reply; the amendment will be tacitly approved and will enter into force 30 days after its reception by the FCH JU, (i.e. on 01/09/2010). It will take effect from 01/07/2010, as requested by the consortium.

3.2 Amendment cases and supporting documents

3.2.1 Removal of one or more legal entities from the list of beneficiaries due to their non-accession to the GA (Art.1.1)

In this case, since the legal entity has never become a beneficiary, the termination of its participation is not needed.

Nevertheless, in these cases, Articles 1.1 and 5.1.1 of the GA and Annex I must be modified to reallocate the tasks and its corresponding budget initially foreseen to be performed by this entity and possibly to include a new beneficiary to take over those tasks. A request for amendment must be submitted by the coordinator, on behalf of the consortium, following the procedures described below (addition of a beneficiary and/or modification of Annex I).

3.2.2 Addition of one or more beneficiaries

To add a new beneficiary to the consortium Articles 1.1 and 5.1.1 of the GA and Annex I must be modified to reallocate the tasks and its corresponding budget initially foreseen. The coordinator must send to the FCH JU a written request for an amendment to the GA on behalf of the consortium, in accordance with the procedure detailed in paragraph 3.1.1 above.

Requested documents:

- Modified Annex I to the GA describing the work to be performed by the new beneficiary (including a revised budget breakdown);
- Grant Preparation Forms (GPFs) duly completed and signed by the new beneficiary (as well as their electronic version prepared in NEF, the Negotiation Facility);
- The Participant Identification Code (PIC) of the new beneficiary. If the new beneficiary is not yet registered in the Unique Registration Facility (URF), the beneficiary must self-register at the Participant Portal <http://ec.europa.eu/research/participants/portal> (first creates/signs in to his/her ECAS account then chooses the 'Register' tab under the 'Organisations' tab). The legal documents and financial reports of the new beneficiary if required Form B (duly signed by the coordinator and the proposed new beneficiary).

Combination of addition and termination of participation of (a) beneficiary(ies)

A request for addition and termination of participation of (a) beneficiary(ies) shall include the documents requested here for addition as well as those requested in paragraph 3.2.15 for termination.

It is important to bear in mind that this type of request may be approved tacitly (if complying with the requirements of paragraph 3.1.1 and 3.1.6).

3.2.3 Change of Coordinator

When the project coordinator changes in an ongoing project, it is necessary to amend the GA to modify in particular the name of the coordinator on page 1 of the GA, Articles 5.3, 8, and Annex I. In some situations, the members of the consortium remain the same, but in other cases the change of coordinator results in the termination of its participation or in the incorporation of a new beneficiary to the consortium. The following cases could be foreseen:

A) The coordinator remains in the consortium

Requested documents for the new coordinator:

If the new coordinator is already a beneficiary:

- Written request from former coordinator and new coordinator to the FCH JU on behalf of the consortium. This letter should be signed by both the former coordinator and the new one. It could also take the form of two separate requests and letters.
- Modification of the Description of Work (Annex I), including revised budget breakdown and proposal for the reallocation of tasks.
- GPF banking details of the new coordinator duly signed together with the new coordinator's mail and e-mail addresses for communication purposes as per Article 8 of the GA.
- Financial documents (if required).

In addition, if the new coordinator is not yet a beneficiary;

- Form B of the new beneficiary.
- GPFs, paper copies from new coordinator duly filled and signed as described in paragraph 3.2.2, as well as their electronic version.
- Legal and financial documents (if required according to the rules).

B) The participation of the coordinator is terminated (at the request of the consortium)

In this case, the procedure followed is the one mentioned above, but in addition the steps foreseen for the termination of the participation of a beneficiary should be followed. They are described in paragraph 3.2.15 of this Guide.

The request should be accompanied by the documents listed under Article II.35.6 of the GA. It should be a written request from the former coordinator to terminate its participation.

In the case of termination of the coordinator's participation requested by the consortium without the agreement of the coordinator (Article II.35.2), the request should be signed by all the other beneficiaries forming the consortium or by one of them representing the others (with the agreement of the rest of the consortium that the FCH JU could verify). The request should include an "opinion letter" from the coordinator who has been requested to leave the consortium or adequate proof that it has been requested in writing to express its opinion, in conformity with the requirements of Article II.35.6. If the old coordinator is bankrupt and cannot sign, a letter from the liquidator would be sufficient.

3.2.4 Partial Transfer of Rights and Obligations

Termination/addition of a beneficiary ("in-out" clause) refers to the cases where the tasks of a beneficiary which leaves the project are assumed by another legal entity. The term "transfer of rights and obligations" has a different legal meaning, it is used in cases such as:

- 1) merger and acquisition which go beyond the change of ownership, or
- 2) when specifically requested by the beneficiaries concerned, in accordance with Article II.40 of the GA.

In fact in the first case, the rights and obligations of the old entity are transferred to the new one, regardless of any amendment. It is the legal act relating to the transfer of rights and obligations and not the amendment which changes the fact that the old entity has been replaced by the new one and this is universally recognised. As to the grant agreement, in some cases (universal transfer of rights and obligations) there is no need of an amendment while in other cases (partial transfer it is necessary).

Universal transfer of rights and obligations:

In this case a legal entity takes over all rights and obligations of another legal entity, which disappears. This is usually the case of takeovers, mergers, etc. The main point here is that the change in the GA is due to the disappearance of the previous beneficiary, and it affects universally all its rights and obligations, not only those related to the GA.

Universal transfer of rights and obligations do not usually require an amendment of the GA concerned; the procedure to follow will be that of an information procedure detailed in paragraph 4.1 of this guide.

Partial transfer of rights and obligations from one entity to another(s):

- When the original entity continues to exist: the new legal entity (through the purchase of departments, laboratories, business units of the other entity) absorbs or takes over part of the rights and obligations of another legal entity; accordingly, some of the rights, obligations and "contracts" of the previous beneficiary will be transferred ("novated"), in favour of the new entity which became the beneficiary. However, the previous beneficiary continues to exist as a legal entity; accordingly, some GAs may be affected, and some not, because only part of its rights and obligations are transferred to the new one.

Example: Company X sells its mobile phone division to company Z; all GAs where the mobile phone division of X was involved will be affected by a transfer of rights and obligations; other GAs where other divisions of company X work will not be affected.

- When the original entity disappears: contrary to the first case, even if the original beneficiary disappears, in this case there is not a universal transfer to a new single entity, but partial transfers to different ones.

Example: Company X is bought by two other companies (Y & Z), one of which will absorb the mobile phone division and the other the remaining divisions. Here for some GAs there will be a transfer of rights and obligations from X to Y, for some others from X to Z.

In these cases of partial transfer, for reasons of legal certainty and attribution of liabilities, a formal amendment of each GA concerned is required.

Procedure in case of partial transfer of rights and obligations:

The beneficiary will request via the coordinator an amendment for the GAs affected by the change. The coordinator must send to the FCH JU a written request for an amendment to the GA on behalf of the consortium, in accordance with the procedure detailed in paragraph 3.1.1 above.

In parallel, the LEAR (Legal Entity Appointed Representative) of the legal entity(ies) concerned by the changes shall indicate these changes through the Participant Portal (URF) (after logging in to the ECAS account) under 'My Organisation' tab: <http://ec.europa.eu/research/participants/portal> and must upload the supporting documents.

For the newly created entity, supporting documents must be uploaded and the validation process initiated.

For the original entity, two scenarios can occur:

(i) The original entity continues to exist as a beneficiary and the FCH JU status remains unchanged - in this case no action is required from the LEAR and the entity continues to exist in PDM/URF.

(ii) The original entity disappears - the LEAR must inform the FCH JU and the CVT, which will record this information in PDM and inform DG BUDG of the Commission of the fact that the entity is no longer active.

In case of questions, the validation service could be contacted by e-mail:

REA-URF-validation@ec.europa.eu

To request the amendment, the clause "Partial transfer of rights and obligations" for these amendments as detailed in the model provided in section 3.3 (par.4) of this guide should be used .

Requested documents:

- GPFs duly completed and signed by the new beneficiary, as well as the electronic version via NEF
- Legal documents justifying the transfer of rights & obligations and its financial reports, if required.
- The Participant Identification Code (PIC) of any new legal entity. If the new beneficiary is not yet registered in the Unique Registration Facility (URF), the beneficiary must self-register at the Participant Portal <http://ec.europa.eu/research/participants/portal> (first obtain an ECAS account then under 'Organisations' tab choose the 'Register' tab).
- The legal documents and financial reports of the new beneficiary, if required;
- Form B of the new beneficiary.
- Although it is not mandatory, the coordinator will also send an accompanying letter explaining the context and nature of the proposed change.

In this case, it is important to take into account that the transfer of rights and obligations, without any other change, does not require a modification of the Description of Work (Annex I).

Neither does this clause require necessarily the submission of reports at the moment of the transfer (as in the case of termination), because the new entity takes over the rights and

obligations of the old beneficiary in the GA. Accordingly, at the end of the reporting period, either:

- The new beneficiary submits reports for the whole period, including the period before the date of the transfer (single Form C etc.).
- Or the old beneficiary submits reports up to the date of the transfer, and the new beneficiary from that moment up to the end of the reporting period (two Forms C etc.).

The clause for partial transfer of rights and obligations states that any reference to the old entity in the GA applies to the new one, and therefore there is no need for an update of the breakdown of costs, unless the split of costs is required by the beneficiaries or by the FCH JU in a particular case.

3.2.5 Modification of Project Title and/or Acronym (Art. 2 of GA)

Since the project title and acronym are mentioned in the first page of the GA and in Article 2, once the GA has been signed, it is only possible to modify them through an amendment. A change of the project title or acronym should only be requested if this is necessary for legal reasons, e.g. if the consortium becomes aware that the acronym is a protected trademark.

Requested documents:

- Written request from the coordinator to the FCH JU on behalf of the consortium.

3.2.6 Modification of Duration and/or of Start Date (Art. 3 of GA)

The modification of the duration of the project, number of months, and/or of its start date which are mentioned in Article 3 of the GA, have to be done through an amendment. In principle, the modification of the duration of the project should be requested before the end of the project. Requests for the modification of the duration may imply the modification of the reporting periods.

The consortium has to be aware that even if the duration of the project is extended it will have to finalise the work with the same FCH JU contribution.

The date proposed in the request for modification of the start date of the project cannot be prior to the submission of the proposal.

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the Project Manager justifying the request.
- If applicable, updated GPFs (paper copy and electronic version via NEF), and updated version of Annex I (including revised budget breakdown).

3.2.7 Modification of Reporting Periods (Art. 4 of GA)

The project is divided into reporting periods of a specific duration, which are determined in Article 4 of the GA. Their modification has to be done by way of an amendment to the GA.

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the project Manager justifying the request.
- Updated GPFs (paper copy and electronic version via NEF), as Form A5 specifically states reporting periods.
- Updated version of Annex I. (including revised budget breakdown)

3.2.8 Change of the Financial Contribution of the FCH JU (Art.5.1 of GA)

Although this is a highly unlikely scenario to be justified in very exceptional circumstances, the modification of the maximum financial contribution to the project indicated in Article 5.1 of the GA has to be made through an amendment to the GA.

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the project Manager justifying the request.
- Updated version of Annex I (including revised budget breakdown).
- Updated GPFs (paper copy and electronic version via NEF) if required.

When the modification refers to an increase of the FCH JU contribution, a new FCH JU Governing Board Decision will be necessary before doing the amendment. This can be envisaged only in very exceptional cases.

The modification of the maximum financial contribution may lead to a change in the pre-financing and to a change of Annex I.

3.2.9 Change of Banking Details (Art. 5.3 of GA)

The modification of the Coordinator's banking details which are mentioned in Article 5.3 of the GA has to be done by means of an amendment.

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the Project Manager justifying the request;
- Updated GPFs, banking details form duly signed, as well as its electronic version via NEF.

3.2.10 Change of the Pre-Financing Amount (Art 6 of GA)

It may be necessary to update the amounts Article 6 of the GA refers to, via an amendment to the GA, notably if there is a modification of the maximum FCH JU contribution for the project (see paragraph 3.2.8 above),

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the Project Manager justifying the request;
- Updated GPFs (paper and electronic versions via NEF), budget breakdown;

- Updated version of Annex I.

3.2.11 Addition, Removal or Modification of Special Clauses (Art. 7 of GA)

The FCH JU has adopted some standard special clauses which establish special conditions to adapt the GAs to the specific programmes, activities and needs and which take precedence over any other provisions of the GA (including its Annexes).

Any addition, deletion or modification of a clause in Article 7 has to be done through an amendment to the GA.

The text of these special clauses has been approved by the FCH JU and cannot be modified. However, in particular cases it may be necessary to complete certain fields or in some others there are different options available (e.g. special clause no. 11, name of a third party).

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the Project Manager justifying the request, and
- Depending on the type of clause, it will be necessary to provide other information, legal documents, GPFs, budget breakdown, modified Annex I, etc.
- When a new member is included in Special Clause 11 to the GA, the documents and legal validation procedure set for beneficiaries under FP7 (including FCH JU) are also required.

3.2.12 Changes to FCH JU's or Coordinator's Contact Details (Art. 8 of GA)

The details included in Article 8 are those required for the communication between the FCH JU and the coordinator. Should the coordinator or the FCH JU change its contact name and/or the address mentioned in that article, the GA has to be updated accordingly by means of an amendment.

This Article will always have to be modified in case of change of coordinator.

Also when the name of the beneficiary changes, the "name of the bank account holder" mentioned in the grant agreement, Article 4.3, probably changes as well, and has to be updated accordingly by means of an amendment.

Requested documents:

- Written request from coordinator, on behalf of the consortium, to the Project Manager justifying the request;
- In case of change of legal details, in parallel, the changes have to be introduced by the LEAR of the coordinator via the Participant Portal <http://ec.europa.eu/research/participants/portal> - after signing in to the ECAS account - under 'My Organisations' tab, and the related supporting documents have to be uploaded.
- If the bank account holder information needs to be updated the coordinator has to submit a new banking information form, with the updated bank account details.

3.2.13 Modification of Annex I (Description of Work)

The modification of the Description of Work may be required for the following aspects:

- Changes in the work to be performed: an amendment is required for removal/addition of tasks in the GA, or for substantial changes in the distribution of the work between beneficiaries.
- Changes in the estimative budget breakdown: an amendment is only required for the cases of addition and termination of participants and also for substantial changes linked to the above-mentioned changes in the work.
- The introduction of subcontractors and third parties (those foreseen in special clause 11 and other third parties making resources available). For the introduction of third parties under special clause 11, the Participant Identification Code of the entity has to be provided. If the new beneficiary is not yet registered in the Unique Registration Facility (URF), the beneficiary must self-register at the Participant Portal <http://ec.europa.eu/research/participants/portal> (first obtain an ECAS account then under 'Organisations' tab choose the 'Register' tab), and provide legal documents, following the instructions provided during self-registration.

3.2.14 Reinstatement of the Work after Suspension of the Project (Art. II.8)

According to Article II.8 of the GA, the project or part of it may be suspended by the FCH JU (unsatisfactory performance) or on request of the consortium (force majeure, exceptional circumstances).

Article II.8

2. The coordinator can propose to suspend the whole or part of the project if force majeure or exceptional circumstances render its execution excessively difficult or uneconomic. The coordinator must inform the FCH JU without delay of such circumstances, including full justification and information related to the event, as well as an estimation of the date when the work on the project will begin again.

3. After having given the consortium through the coordinator a delay to make observations, the FCH JU may suspend the whole or part of the project where it considers that the consortium is not fulfilling its obligations according to this grant agreement. The coordinator shall be informed without delay of the justification for such an event and the conditions necessary to reinstate the work again. The coordinator shall inform the other beneficiaries. This suspension takes effect 10 days after the receipt of the notification by the coordinator.

4. During the period of suspension, no costs may be charged to the project for carrying out any part of the project that has been suspended.

5. The suspension of the whole or part of the project may be lifted once the parties to the grant agreement have agreed on the continuation of the project and, as appropriate, any necessary modification, including extension of the duration of the project, has been identified by means of a written amendment.

A) Request from the coordinator for suspension

The request shall not be considered as accepted until the FCH JU agrees explicitly to it through a formal letter specifying the terms of the suspension and the conditions needed to reinstate the work.

B) Suspension by the FCH JU

The FCH JU shall inform the coordinator of the terms of the suspension, the part of the work or the beneficiary suspended (if applicable) and the conditions for reinstatement. If the continuation of the project is decided at the end of the suspension period, it is then necessary to make an amendment to the GA (extension of the duration, modification of Annex I, etc.). The date of entry into force of the amendment needs to be concomitant with the date of the lifting of the suspension from which date costs may be charged again to the project.

C) Amendment reinstating the continuation of the GA

In cases where the consortium asks the FCH JU for lifting of the suspension, it shall do so in a separate letter different from the one requesting the amendment. The letter requesting the amendment would indicate the changes needed or combine the request for the lifting with a request for amendment in the same letter, following the model letter provided under section 3.3 of this guide, and including the reference to the lifting of the suspension as proposed under the options in the last paragraph of this model.

3.2.15 Termination of the participation of (a) beneficiary(ies) at the request of the consortium (Art. II.35)

The request of termination of the participation of a beneficiary also involves a request for amendment.

Any request shall be submitted by the coordinator in accordance with the procedure established in these guidelines, paragraph 3.1.1.

The request for termination of the coordinator's participation without its agreement shall be submitted by all other beneficiaries or by one of them representing the others (see paragraph 3.2.3 of this guide).

A) Requested documents:

- Written request from the coordinator, on behalf of the consortium, requesting and justifying the termination of the participation of the beneficiary concerned, including the proposed date on which the termination shall take effect, and the consortium's proposal for reallocation of the tasks and budget of that beneficiary.
- A letter containing the opinion of the beneficiary whose participation is requested to be terminated (if bankrupt, letter of liquidator). This letter can be substituted by "*... proof that the beneficiary has been requested in writing to express its opinion on the proposed termination and has been asked to send the reports and deliverables but failed to do so within the time limit established by that notification. This time limit shall not be inferior to one month; in this case, if no reports have been submitted with the request for termination, the FCH JU shall not take into account any further claims of that beneficiary and shall not make any further reimbursement for it*" (Article II.35.6, third indent).
- *The reports and deliverables referred to in Article II.4 (including Form C and CFS if required), relating to the work carried out by this beneficiary up to the date on which the termination takes effect, together with a comment of the coordinator on*

these reports and deliverables and a declaration on distribution of payments to this beneficiary by the coordinator.

- Modified Annex I - Modification of description of work (including revised breakdown of costs).

In the absence of receipt of such documents, the request shall not be considered as a valid request.

B) Approval or rejection of the request

The approval or rejection has to follow the procedure foreseen under section 3.1 of this guide. The FCH JU, according to Article II.36 of the model FCH JU GA, undertakes to approve or reject any valid request for termination within 45 days of its receipt.

Approval or rejection of a termination with the agreement of the beneficiary

For cases where the consortium requests the termination with the agreement of the beneficiary whose participation is to be terminated, the absence of a response from the FCH JU within 30 days of receipt of such a request shall be considered as approval (tacit approval) of the termination and of the amendment to the GA.

In the cases where tacit approval is applicable, the approval applies only to the termination and not to the content of the reports attached to the request. For the approval of these reports the provisions of Article II.5 apply. This means, that the termination of the participation of the beneficiary is approved and that the reallocation of the tasks proposed is only provisionally approved. There could be a need for the reallocation of tasks which have been reported as having been done but not accepted by the FCH JU following analysis of the relevant reports and deliverables.

Tacit approval applies also for combined cases of the addition and termination of beneficiaries which are not coordinators. When the request for the addition or removal of a beneficiary is associated with requests for other modifications to the GA which are not directly related to this addition or termination, the whole request shall be subject to the written approval of the FCH JU.

Example: Addition and termination associated with an extension

Approval or rejection of a termination without the agreement of the beneficiary

Special care should be taken when the termination of the participation of a beneficiary is requested by the consortium without the agreement of the beneficiary. The FCH JU has to take into consideration both the arguments raised by the consortium and by the beneficiary, and has to arbitrate. The FCH JU has to give the reasons for its decision to accept or to reject the request for termination. Where the consortium agreement sets out clear rules on terminating the participation of a beneficiary and where these rules have been applied, the FCH JU will not oppose the termination.

In the case where the consortium requests the termination without the agreement of the beneficiary whose participation is to be terminated, the absence of a response from the FCH JU within 45 days of receipt of such a request shall be considered as a rejection. In these cases, if during the processing of the file, the FCH JU foresees that it will not be possible to finalise the analysis before the end of the time-limit, the FCH JU will respond within the 45 days by sending an email to the consortium informing it that the file is being processed and that the consortium will be informed of the decision once the request and the reports attached have been analysed.

In the cases of termination of a beneficiary's participation, the FCH JU shall also send a copy to the beneficiary concerned.

3.2.16 Termination of the GA at the request of the Consortium (Art. II.35)

Who shall make the requests and how?

Any request shall be submitted by the coordinator in accordance with the procedure established in this guide, paragraph 3.1.1

Content of the request (Article II.35.6)

- The reasons for requesting the termination.
- The proposed date on which the termination shall take effect.
- The reports and deliverables referred to in Article II.4 of the GA.

Approval or rejection of the request

The approval or rejection has to follow the procedure foreseen under paragraph 3.1.5 of this guide. The FCH JU, according to Article II.36 of the GA, undertakes to approve or reject any valid request for termination within 45 days of its receipt.

The absence of a response within 45 days of receipt of such a request shall be considered as a rejection. In these cases, if the FCH JU considers that it will not be possible to finalise the analysis before the end of the time-limit, the FCH JU will respond within the 45 days by sending an e-mail to the consortium informing it that the file is being processed and that the consortium will be informed of the decision once the request and the reports attached have been analysed.

In order to agree on the termination, the FCH JU should approve the reports and deliverables submitted. The termination will not be effective until the reports are approved by the FCH JU. After the submission of the reports no further costs will be eligible. If the FCH JU requests any modification/missing reports, only the costs related to the drafting of these reports may be charged to the project.

The FCH JU's approval or explicit rejection of the requested termination of the GA shall be notified to the coordinator, which receives it on behalf of the consortium.

3.2.17. Change or mistake in the legal status of beneficiaries affecting their maximum reimbursement rate (Art. II.16)

The standard GA under Article II.16.1 grants non-profit public bodies, secondary and higher education establishments and research organisations and SMEs, a privileged reimbursement rate of up to 75% of the total eligible costs for research and technological development activities.

For grant agreements applicable to projects launched as a result of the call for proposals 2008

- If during the duration of a GA, a beneficiary changes its status and is no longer a SME, a research organisation, a non-profit public body or a secondary or higher

education establishment, Article II.16.2 provides that the privileged reimbursement rate shall be applied only up to the moment they lose it.

In this case, the beneficiary is obliged to inform the FCH JU of the change in its legal status via the Registration Facility together with a list of projects where it participates. This change requires, contrary to the practice in FP7, proceeding to an amendment.

- It is theoretically also possible that a modification is required due to a mistake during the negotiation. In that case the beneficiary should explain in detail the circumstances of the error. It will have to submit a formal statement from a qualified auditor certifying the error.

Upon verification by the URF, the GA will be amended.

- By contrast, if during the duration of a GA, a beneficiary becomes a SME, a research organisation, a non-profit public body or a secondary or higher education establishment, this change will not affect the ongoing GAs.

For grant agreements applicable to projects launched as a result of the call for proposals 2009 and the following,

- If during the duration of a GA, a beneficiary changes its status the reimbursement rate will remain the same for the whole duration of the project. There is therefore no need of any amendment.
- However, it is theoretically possible that a modification is required due to a mistake during the negotiation; the beneficiary should explain in detail the circumstances of the error. In this case, the beneficiary is obliged to inform the FCH JU of the correction together with a list of projects where it participates. It will have to submit a formal statement from a qualified auditor certifying the error.

Upon verification by the URF, the GA will be amended.

It is also possible that as a consequence of the correction in the indirect cost calculation, the budget breakdown is modified in such a way that is also necessary to amend Annex 1.

3.3 Model Letters

3.3.1 Model to Be Used By Project Coordinators to request an amendment

(Comments:

- The following model has to be used by project coordinators to request the FCH JU to modify the GA. Coordinators will use the clauses detailed in this model in accordance to their particular amendment request.
- The number of the paragraphs correspond to the number of the amendment cases described in section 3.2)

[Insert place and date]

*[Insert the FCH JU address
indicated in Article 8.1 of the GA]*

REGISTERED WITH ACKNOWLEDGEMENT OF RECEIPT or BY COURIER
SERVICE WITH ACKNOWLEDGMENT OF RECEIPT

Dear *[insert the name of the legal representative who signed the grant agreement]*,

Subject: Request for Amendment No. *[insert number]* to grant agreement No. *[insert number]* - Project title "*[insert Acronym]*"

With reference to the above mentioned grant agreement, I request on behalf of the consortium to modify the grant agreement as follows:

1. Removal of one or more legal entities from the list in Article 1.1 due to their non-accession to the GA

The following entit[y][ies] *[is][are]* removed from the list in Articles 1.1 and 5.1.1 due to *[its] [their]* non-accession to the grant agreement:

- *[insert full name and legal form of the beneficiary(ies)]* (national registration number if any)

2. Addition of one or more beneficiary(ies)

The following entit[y][ies] *[[is][are]* added as *[beneficiary] [ies]* with effect from the date[s] specified in the following table:

Full name and legal form of the beneficiary (national registration number if any) established in (<i>full address city/state/province/country</i>), represented by (<i>name of legal representative</i>), (<i>function</i>), [<i>and/or (name of legal representative), (function)</i>], or her/his/their authorised representative	Start date of participation

[Article 1.1][Page 1] of the grant agreement is modified accordingly.

3. Change of coordinator

[Name of initial coordinator] will no longer assume the role of coordinator of the Project and [name of new coordinator] will assume this role from [date].

[This amendment request has to also include the request to modify Article 5.3 and 8 of the GA in order to update the coordinator's banking details and its communication data].

[Only in the specific case of a change of coordinator, without its agreement, shall the request be submitted by all beneficiaries or by one representing the others. If all sign, each beneficiary must print clearly below the signature:

- the name of the legal entity
- the name of legal representative
- the corporate seal, if necessary.]

4. Partial transfer of rights and obligations

[Full name and legal form of the beneficiary which takes over the rights and obligations] (established in (*full address/city/state/province/country*), represented by (*name of legal representative*), (*function*), [*and/or name of legal representative*), (*function*)], or her/his/their authorised representative), for the purposes of this grant agreement has taken over the rights and obligations of [*initial beneficiary's name and legal form*], as of "[*insert date*]".

Any reference in the grant agreement, including Annex I and the table of the estimated breakdown of costs, to [*initial beneficiary's name and legal form*] shall be deemed to be a reference to [*name and legal form of the beneficiary which takes over the rights and obligations*], therefore [*name and legal form of the beneficiary which takes over the rights and obligations*] is a member of the consortium identified in Article 1.1.

Notwithstanding the transfer referred to above, the FCH JU and/or the European Court of Auditors and their authorised representatives shall continue to enjoy the rights referred to in Articles 22 and 23 of Annex II to the grant agreement in respect of work undertaken by [*initial beneficiary's name and legal form*] which shall continue to be bound by the provisions of the grant agreement and its Annexes relevant to the effective exercise of these rights.

5. Modification of project title (Acronym)

[The Acronym of the project is changed from "[*former Acronym*]" to "[*new acronym*]".

Any reference in the grant agreement and its annexes, including Forms A and B, to "[*former Acronym*]" will be deemed to be a reference to "[*new Acronym*]".]

[The title of the project is changed from "[*former title*]" to "[*new title*]".

Any reference in the grant agreement and its annexes, including Forms A and B, to "[*former title*]" will be deemed to be a reference to "[*new title*]".]

6. Modification of duration

The duration of the project specified in Article 3 of the grant agreement is modified as follows:

New duration: [*insert new number*]

6bis. Modification of start date

The start date of the project specified in Article 3 of the grant agreement is modified as follows:

New starting date of the project: [*insert new start date*]

7. Modification of reporting periods

Article 4 of the grant agreement is modified as follows:

- P1: from month 1 to month X
- P2: from month X+1 to month Y
- P3: from month Y+1 to month Z
- (...)
- [final]: from month [N+1] to the last month of the *project*

8. Change of the financial contribution of FCH JU

[The financial contribution of the FCH JU] is [*increased*][*decreased*] by EUR [*insert increased/decreased amount*] ([*insert amount in words*] EURO).]

The maximum financial contribution of FCH JU] specified in Article 5.1 of the grant agreement is modified as follows:

EUR [*insert new amount*] ([*insert amount in words*] EURO)

This modification takes effect from [*insert date*] [*date of entry into force of this amendment*].

9. Change of banking details

The coordinator's banking details indicated in Article 5.3 of the grant agreement are amended as follows:

Name of account holder:

Name of bank:

Account reference: [IBAN/sort code and number]

10. [Increase] [Decrease] of the amount of the pre-financing

The pre-financing is [*increased*] [*decreased*] by EUR [*insert increased or decreased amount*] ([*insert increased or decreased amount in words*] EURO).

This [*complementary*] pre-financing shall be paid to the coordinator within 45 days following the date of entry into force of this amendment.

Therefore, the total amount of the pre-financing specified in Article 6 of the grant agreement is modified as follows:

EUR [*insert total amount*] ([*insert total amount in words*] EURO)

This modification takes effect from [*insert date*] [*the date of entry into force of this amendment*].

11. Addition, removal or modification of special clauses

The special clause(s)

No	Text of the special clause

[*is*] [*are*] **added** to Article 7 of the grant agreement as from [*insert date*].

The special clause(s)

No	Text of the special clause

[*is*] [*are*] **removed** from Article 7 of the grant agreement as from [*insert date*].

The special clause(s) set out in Article 7 of the grant agreement [*is*] [*are*] **modified** as follows:

No	Text of the special clause

as from [*insert date*].

12. Change of coordinator's *[name]* [and] *[address(es)]*

[The *[name]* [and] *[address(es)]* specified in Article 8.1 of the grant agreement is modified as follows:

For the coordinator: *[name of contact person]*
[contact address]]

[The address specified in Article 8.2 of the grant agreement is modified as follows:

For the coordinator: *[name of contact person]*
[contact address]]

13. Modification of Annex I - Description of Work

Annex I - Description of Work is modified.

[The revised [Part A.1 (overall budget breakdown for the project), A.2, A.3] [Part B1, B2, B3, B4, B5] of Annex I dated *[insert date]* attached to this letter replaces any former version.]

[The revised page[s] numbered "[]" [through "[]" dated *[insert date]* attached to this letter shall replace the corresponding page[s] in Annex I to the grant agreement.]

[Addendum No.[] dated *[insert date]* attached to this letter shall be incorporated as part of Annex I to the grant agreement. In case of conflict between Annex I and any provisions of Addendum No.[] the latter shall prevail.]

[Consequently, I also request on behalf of the consortium that the suspension of the project is lifted *[as of insert date]*].

[This amendment request contains separate requests that can be approved independently].

15. Termination of a beneficiary's (ies') participation

The participation of the following *[beneficiary][ies]* is terminated *[from the date[s]]* specified in the following table *[from the date of the FCH JU's signature] [the 45th day following the date of receipt of the request]:*

Full name and legal form of the beneficiary(ies) (national registration number if any)	End date of participation

[Article 1.1][Page 1] of the grant agreement is modified accordingly.

16. Termination of the grant agreement

Grant agreement No. *[insert number]* - Project title "*[insert Acronym]*" is terminated. The reason for the termination requested is (are):

(Insert explanation)

Termination will take effect as from *(insert date)*.

Reports and deliverables referred to in Article II.4 and relating to the work carried out are enclosed.

17. Change or mistake in the legal status

The revised table attached to this letter replaces any former version in Article 5.1..

All other provisions of the grant agreement and its annexes shall remain unchanged.

Yours sincerely,

For the coordinator on behalf of all beneficiaries, done at *[insert place]*

Name of the legal entity:

Name of legal representative:

Stamp of the organisation (if applicable):

Signature of legal representative:

Date:

Enclosed: *[the requested supporting documents]*

3.3.2. Model to Be Used by the Coordinator to Accept the FCH JU Request

[Insert place and date]

*[Insert the FCH JU address
indicated in Article 8.1 of the grant agreement]*

REGISTERED WITH ACKNOWLEDGEMENT OF RECEIPT or BY COURIER
SERVICE WITH ACKNOWLEDGMENT OF RECEIPT

Dear (*insert the name of the legal representative who signed the Grant Agreement*),

Subject: Request for Amendment No. [*insert number*] to grant agreement No. [*insert number*] - Project title "[*insert Acronym*]"
Your letter requesting amendment dated [*insert date*]
[*Ref. insert reference*]

With reference to the above letter, this is to inform you that the consortium agrees to your request to modify the grant agreement as follows:

(Comment: Insert the appropriate clauses from the FCH JU request.

This amendment comes into force on the date of signature of this letter, and with effect from the date mentioned in the FCH JU letter.

Yours sincerely,
.....

For the coordinator on behalf of all beneficiaries,

Name of the legal entity:

Name of legal representative:

Stamp of the organisation (if applicable):

Signature of legal representative:

Date:

4. CHANGES THAT DO NOT REQUIRE AN AMENDMENT

The GA may be affected by other types of changes, which do not affect the agreement of the parties and which do not require an amendment signed by the authorised legal representatives of the parties. However, beneficiaries must inform the FCH JU and the other beneficiaries about these changes following an **information procedure** which is shorter and simpler than an amendment request. The GA sets out under Article II.3(f) a general obligation to beneficiaries to inform the other beneficiaries of the consortium and the FCH JU through the coordinator in due time and in writing about these changes.

Beyond the obligation to inform the coordinator of the project where it is involved, the beneficiary has to inform the FCH JU about the changes mentioned here, as they will affect the ongoing GA.

4.1 Common elements of procedures

The beneficiary concerned - via its Legal Entity Appointed Representative (LEAR) - introduces the request for change (including the supporting documents) online on the Web interface of the Unique Registration Facility (URF) of the Commission (including the FCH JU), which is accessible via the Participant Portal (<http://ec.europa.eu/research/participants/portal>).

The LEAR has to:

1. Go to the Participant Portal <http://ec.europa.eu/research/participants/portal> and sign in with his/her ECAS password.
2. Go to 'My Organisations' tab and introduce the requested changes in the given field together with the date from when the change is effective, on the basis of the legal document provided, if applicable. The types of change that can be introduced via this method include:
 - Organisation data;
 - Legal address;
 - FP7/FCH data (including indirect cost model);
 - Status of the organisation;
 - Enterprise data (in particular the SME status)
 - Mergers, acquisitions, etc. resulting in the transfer of rights and obligations from a legal entity.
3. Upload the supporting documents in the 'Document management' section.
4. Finalise his/her request for change by pushing the 'Submit' button on the portal.

Once this procedure is accomplished, in principle, no further communication between the LEAR and the FCH JU is necessary.

However, in case of problems, such as for example missing supporting documents, the validation service of the Commission (REA.A.1) will contact the LEAR by e-mail to request the additional information.

If no LEAR has been appointed

Before being able to introduce any change, the beneficiary has to appoint a LEAR for its organisation, who has to be validated first, by the validation service of the Commission (including FCH JU).

For further information on the appointment of LEAR's, please follow the steps described on:

- the Cordis portal: http://cordis.europa.eu/fp7/pp-lear_en.html ; or
- on the Participant Portal FAQ (frequently asked questions) section: <http://ec.europa.eu/research/participants/portal> .

Contact:

Should you experience any problems, please contact the validation services of the Commission:

e-mail: REA-LEAR-VALIDATION@ec.europa.eu

Research Executive Agency // FP7 Support (A1)

COVE 3/48

1049 Brussels

Belgium

FCH JU's action:

Following the verification and acceptance of the request for change, the Commission (including FCH JU) updates the information in its IT system(s). The validated changes will then be visible to the LEARs via the Web interface of the URF.

In case of missing information or partial or full refusal of requests for changes, the validation service of the Commission will contact the LEAR of the beneficiary by email, requesting additional supporting documents to justify the requested change or inform them of the decision.

In some circumstances, the FCH JU may take the initiative to inform the consortium of any changes (e.g. discovered during an audit of a beneficiary or in the frame of another GA).

4.2 Different cases and supporting documents

The main cases where the LEARs of the beneficiaries should request changes via the Participant Portal (URF),

4.2.1 Change of name and legal details of a beneficiary.

When a beneficiary undergoes a "change of name" or "legal details", the LEAR of the beneficiary requests the update of its new details in the Commission (including FCH JU) database via the Participant Portal (URF), and uploads all legal documents related to that change (copy of the documents related to the change of name and/or legal details in the Registry or Chamber of Commerce, etc.), in order to be sure of the nature of the changes.

In certain cases, what may appear to be a "change of name", may in fact refer to different cases, some of which will require an amendment (e.g. change of legal entity), the procedure to follow then is that established in chapter 3 of this guide.

When the legal details of a beneficiary are changed, such as its address, no formal amendment is needed.

Examples:

o X ltd moves its headquarters from Paris to Lille

o Nemo s.a. changes its name to Nemorino s.a.

If however a new entity has been created, an amendment to the GA is required (section 3.2), unless it is a case of a universal transfer of rights and obligations, and the new entity has to be registered in the Unique Registration Facility starting with self-registration at the Participant Portal: <http://ec.europa.eu/research/participants/portal> (first obtain an ECAS account then under 'Organisations' tab choose the 'Register' tab) following the instructions given thereby.

4.2.2 Universal transfer of rights and obligations (UTRO)

In this case, the "new" entity assumes universally all rights and obligations of the old one, and the "old" beneficiary disappears. This is usually the case of takeovers, mergers, etc. The main point here is that the change in the GA is due to the disappearance of the previous beneficiary, and it affects universally all its rights and obligations, and not only those related to the GA.

Examples:

o Company X Ltd disappears and becomes X plc

o Company X merges with company Z

While a UTRO "per se" does not require an amendment, in some cases the changes within the beneficiary may also involve the need for an amendment to the GA. For example, an amendment will be necessary for cases where the beneficiary concerned is the coordinator of the project; in those cases the FCH JU will have to amend the GA and the coordinator's banking and communication details will have to be updated as well. An amendment could also be required if the transfer implies the necessity to include a special clause in the GA or another modification which implies an amendment as described in chapter 3 supra.

A merger or takeover which may have an impact on the eligibility criteria may lead to the termination of the GA or the participation of this beneficiary at the initiative of the FCH JU. It is also possible that, following this change requiring only an information procedure (i.e. universal transfer of rights), the consortium in a specific GA requests the termination of the participation of the beneficiary, or that one of the beneficiaries in the GA decides to withdraw from the project. In this case, the relevant request for termination should be addressed to the FCH JU according to the standard procedure detailed in paragraph 3.2.15.

4.2.3 Mistakes in the indirect cost calculation

A beneficiary cannot change the option to declare indirect costs in the same GA. However, it is theoretically possible that a change is required due to a mistake during the negotiation; the beneficiary should explain in detail the circumstances of the error.

Example: Beneficiary having chosen to declare actual indirect costs who later claims to be unable to allocate indirect costs to the projects, and has to correct its option in the GA to the 20% flat rate.

In this case, the beneficiary is obliged to inform the FCH JU of the correction together with a list of projects where it participates. It will have to submit a formal statement from a qualified auditor certifying the error.

Upon verification by the URF, there is no need for an amendment to the GA; however, an acknowledgement will be sent by the FCH JU to the beneficiary, confirming the correction/change.

It is possible that as a consequence of the correction in the indirect cost calculation, the budget breakdown is modified in such a way that an amendment is then necessary; in that case the standard procedure foreseen in this Guide should be followed (see section 3.1).

4.2.4 Other Cases Where the FCH JU should be informed

Apart from the cases mentioned above, the GA foresees under Article II.3 (f) of the GA other cases where there is a general obligation for a beneficiary to inform the FCH JU and other beneficiaries through the coordinator of:

- The names of the persons(s) who shall manage and monitor its work, and its contact details as well as any change to that information.
- Any event which may affect the implementation of the project and the rights of the FCH JU.
- Any circumstance affecting the conditions of participation referred to in the Rules for Participation, the Financial Regulation and its implementing rules or of any requirements of the GA, especially if and when any eligibility criteria cease(s) to be met during the duration of the project.

For these cases not specifically covered in paragraphs 4.2.1 and 4.2.2, in accordance with Article 8 of the GA, the only requirement for the beneficiary is to inform the FCH JU through the Project Manager.

4.2.5 The Specific Case of Change of Authorised Representative of a Beneficiary

The case of change of authorised representative as indicated in the GA is of particular significance. In this case, there is no need for an amendment to the GA but the information for the GA concerned should be updated. It is important that when the signature of the authorised representative is required (e.g. amendment) there is no doubt about the validity of the change of the authorised representative.

The change must be treated at the level of each individual GA as authorising representatives from one legal entity may be different from one GA to another.

Two situations usually arise:

A) It may happen that the change/appointment of an authorised representative is raised within the frame of an amendment request (requested for other reasons) and the signature of the authorised representative (usually the coordinator's authorised representative) does not correspond to the Commission (including FCH JU) records. In this particular case, (where there has not been a letter addressed by a beneficiary to the Commission to inform about the change, but the change is requested within the framework of an amendment request), the amendment procedure described in section 3.1 of this guide should be used, and the change of authorised representative has to be mentioned in the letter accompanying the amendment request from the coordinator.

In this case, the request should be addressed by the coordinator to the FCH JU to the address indicated in Article 8.

B) The beneficiary shall write directly to the FCH JU to inform about general changes in its authorised representative for the signature of a individual GA or a series of GAs. The beneficiary should send this information to the operational unit and clearly define the extent of the changes proposed, as well as the GA concerned by them.

In both cases the FCH JU shall receive clear proof of the change of authorised representative; it may be provided by means of a letter in which the previously authorised representative (as appears in the GA) appoints or confirms the appointment of the new person. It could also be proved by means of documents certifying the change.

Example: Official journal appointing new Rector for a University.

Other kinds of documents may also be used, including private ones (e.g. appointment by the Board of Directors, etc.). In all cases it is preferable to have a letter from the previously authorised representative.

The FCH JU shall update the information for their GA and shall confirm the change to the beneficiary (this is not necessary in cases where the signature is required by an amendment, in which case the signature of the amendment by the FCH JU suffices).