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Article 1: Definitions and Interpretation

Action:	the cooperation program or project partly or wholly financed by the EU, which may be carried out by the Organisation itself and/or the Sub-delegatees, as described in Annex I.
Budget Implementation Tasks	tasks consisting of carrying out procurement and grant award procedures, and awarding, signing and executing the resulting procurement and grant contracts, notably accepting deliverables, carrying out payments and recovering the funds unduly paid, where works, services, supplies and other benefits are not for the own use of the Organisation.
Central Exclusion Database	database of all legal and natural persons excluded from EU funding set up by Commission Regulation (EC, Euratom) No. 1302/2008, of 17 December 2008, on the central exclusion database (OJ L 344/12, 20.12.2008).
Contractor:	a natural or legal person with whom a procurement contract has been signed.
Economy:	the principle of economy requires that resources used in the pursuit of the implementation of the Action shall be made available in due time, in appropriate quantity and quality and at the best price.
Effectiveness:	the principle of effectiveness concerns the attainment of the specific objectives and the achievement of the intended results.
Efficiency:	the principle of efficiency concerns the best relationship between resources employed and results achieved.
Grant Beneficiary:	a natural or legal person to whom a grant has been awarded. Grant beneficiaries can sub-grant and procure for the implementation of their activities.

Final Beneficiary:	a natural or legal person ultimately benefitting from the Action.
Force Majeure:	Any unforeseeable exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of its obligations under the Agreement, which may not be attributed to error or negligence on either part (or the part of the Sub-delegatees, Contractors, agents or staff), and which could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial problems cannot be invoked as force majeure by the defaulting Party.
Internal Control:	a process applicable at all levels of management designed to provide reasonable assurance of achieving the following objectives: (a) effectiveness, efficiency and economy of operations; (b) reliability of reporting; (c) safeguarding of assets and information; (d) prevention, detection, correction and follow-up of fraud and Irregularities; (e) adequate management of the risks relating to the legality and regularity of the financial operations, taking into account the multiannual character of programmes as well as the nature of the payments concerned.
Sub-delegation	the entrustment of Budget Implementation Tasks by the Organisation to another body.
Substantial Error or Irregularity:	infringement of a provision of an agreement resulting from an act or an omission which causes or might cause a loss to the EU contribution.
Sound Financial Management:	principle overarching the implementation of this Agreement, namely economy, effectiveness and efficiency.

Article 2: General obligations

Implementation of the Action

- 2.1 The Organisation is responsible for carrying out the activities relating to the implementation of the Action described in Annex I of the Agreement, which shall specify the indicators to measure achievements. Both Parties will endeavour to strengthen their mutual contacts with a view to improving the exchange of information throughout the implementation of the Action. To this end, the Organisation and the Commission shall participate in coordination meetings and other jointly organised common activities, and the Organisation shall invite the Commission to join any donor committee which may be set up in connection with Multi-donor Actions.
- 2.2 In performing the activities entrusted to it under the Agreement, the Organisation shall not modify the main features of the Action as described in Annex I, such as its objectives, strategies and priority areas as well as any other essential element specified in the Special Conditions of this Agreement.
- 2.3 The Organisation shall perform the activities assigned to it under the Agreement in accordance with the principle of Sound Financial Management, transparency and non-discrimination.
- 2.4 The Organisation undertakes to do everything in its powers to mobilise all financial, human and material resources required for full implementation of the Action, as specified in Annex I.
- 2.5 In the performance of the activities, the Organisation shall apply its own accounting system, which shall provide timely, accurate, complete and reliable information; ensure the functioning of an effective and efficient Internal Control System and be subject to an independent audit performed in accordance with internationally accepted auditing standards by a functionally independent audit service.

- 2.6. In case the Organisation, accordance with Article 1.3.b of the Special Conditions, uses its own rules for grant and/or procurement procedures, the Organisation shall ensure that transparent, non-discriminatory, efficient and effective review procedures are in place.

Responsibility

- 2.7. Responsibility of the Organisation
- a) The Organisation shall remain fully responsible towards the Commission for the implementation of the Action and for ensuring compliance with the provisions of the Agreement, regardless whether the activities are carried out by the Organisation itself or a Sub-delegatee, a Contractor or a Grant Beneficiary.
 - b) The Organisation, in accordance with its rules and regulations, shall take all necessary measures to resolve problems encountered in proportion to their seriousness, including the suspension of the agreements with Sub-delegatees and the suspension of payments. Where the situation so requires, the Organisation shall terminate the agreements with Sub-delegatees and/or the contracts with Contractors and Grant Beneficiaries.
 - c) The Organisation shall take measures to prevent, detect and correct Irregularities and fraud when executing the activities. To this end, the Organisation shall carry out, in accordance with the principle of proportionality, ex ante and ex post controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the actions financed by the EU are effectively carried out and implemented correctly.
 - d) The Organisation shall have full financial responsibility towards the Commission for all funds unduly paid to Sub-delegatees, Contractors and Grant Beneficiaries. The Organisation shall take all necessary measures to recover funds unduly paid or incorrectly used, including bringing legal proceedings against Sub-delegatees, Contractors and Grant Beneficiaries. The Commission will be entitled to recover funds:
 - i) from the Organisation in accordance with the provisions on recovery in Article 21.
 - ii) from the Sub-delegatees when the Organisation could not recover itself from the Sub-delegatees and the Organisation has included in the agreements with Sub-delegatees the right of the Commission to proceed itself to the recovery by any means if the Sub-delegatee does not reimburse the Organisation.

Other obligations

- 2.8 The Organisation shall ensure that the obligations stated in this Agreement under Article 8-Data protection applies to all Contractors and that Articles 6-Conflict of interest, 7-Confidentiality, 9- Communication and Visibility, 11-Ownership, right to use and transfer of results and equipment, and 22-Accounts, technical and financial checks apply, where applicable, to all Contractors and Grant Beneficiaries.
- 2.9 The Organisation shall notify the Commission without delay of any substantial change in the rules, procedures and systems applied in the implementation of the Action. This obligation concerns in particular (i) changes affecting the pillars assessment undergone by the Organisation, (ii) those which may affect the conditions for eligibility provided for in the applicable legal instruments of the EU, or (iii) any other circumstance likely to affect the implementation of the Action or delay or jeopardise the performance of the activities. The Commission reserves the right to adopt additional measures in response to said changes or to terminate the Agreement pursuant to the provisions of Article 16 hereafter.

Article 3: Sub-delegation

- 3.1 The Organisation may delegate activities to one or more Sub-delegatees, as described in Annex I. When the Sub-delegatees are not stated in Article 1.5 of the Special Conditions, the Organisation shall ask prior written approval of the Commission once they are identified.

- 3.2 The Sub-delegatee may not further sub-delegate the activities delegated to it by the Organisation.
- 3.3 Sub-delegation of activities is only possible where the following conditions are met:
- a) the Sub-delegatee is a third country or the body that it has designated, an international organisation or one of its agencies, a public law body or a body governed by private law with a public service mission to the extent that it provides adequate financial guarantees. In the case of EU Member States bodies and international organisations, sub-delegation is also possible to non-profit organisations possessing the appropriate operational and financial capacity;
 - b) the Sub-delegatee has been positively assessed ex ante by the Commission to work in indirect management, or it has been positively assessed ex-ante by the Organisation which carried out a pillars assessment equivalent to the one performed by the Commission on the Organisation. Where approved in the ex-ante assessment of the Organisation by the Commission, the ex-ante assessment of the Sub-delegatee can be replaced in whole or in part, by the Organisation imposing rules on the Sub-delegatee which provide guarantees equivalent to those referred to in Article 1.3 of the Special Conditions, and approving ex-ante the Budget Implementation Tasks implemented by the Sub-delegatee;
 - c) the Organisation ensures that the necessary ex-post controls are in place in order to guarantee the sound financial management of the EU contribution;
 - d) the Organisation entrusts to the Sub-delegatee a part of the Action described in Annex I consisting in Budget Implementation Tasks.
- 3.4 The Organisation shall ensure that (i) Sub-delegatees carry out the activities entrusted to them for the implementation of the Action and (ii) the costs incurred by the Sub-delegatees are eligible in accordance with Article 18. The Organisation shall conduct regular checks to ensure that the Action is implemented correctly by the Sub-delegatees.
- 3.5 The Organisation shall ensure that the provisions laid down in Articles: 2.3, 2.4, 2.5, 2.6, 2.7.b), 2.7.c), 2.8 and 2.9- General obligations, 4 - Reporting, 5- Liability, 6-Conflict of interest, 7-Confidentiality, 8- Data protection, 9-Communication and Visibility, 10-Ex-post publication of Contractors and Grant Beneficiaries, 11-Ownership, right to use and transfer of results and equipment, 12-Evaluation and monitoring of the Action, 14-Contracting and Central Exclusion Database and 22-Accounts, technical and financial checks apply mutatis mutandis to Sub-delegatees.

Article 4: Obligations regarding information and reporting

General issues

- 4.1 The Organisation shall provide the Commission with full information on the implementation of the Action. To that end, the Organisation shall include in Annex I a work plan at least for the first part of the Implementation Period. The Organisation shall submit to the Commission progress report(s) and a final report in accordance with the provisions below. These reports shall consist of a narrative part and a financial part.
- 4.2 Every report shall provide a complete account of all relevant aspects of the implementation of the Action for the period covered. The report shall also describe the implementation of the Action according to the indicators set out in Annex I. The report shall be laid out in such a way as to allow comparison of the objective(s), the means envisaged and employed, the results expected and obtained and the budget details for the Action. The level of detail in any report shall match that of Annexes I and III.
- 4.3 In case of Multi-donor Actions where the project or programme of the Organisation lasts longer than the implementation period of this Agreement, the Commission may request the final reports of the project or programme once available. This is without prejudice to the close of the execution period of this Agreement following Article 16.4.
- 4.4 Any additional reporting requirement shall be set out in the Special Conditions.

4.5 The Commission may request additional information at any time, providing the reasons for that request. Such information shall be supplied within 30 calendar days of receipt of the request.

Content of the reports

- 4.7 The progress report(s) shall directly relate to this Agreement and shall at least include:
- a) Summary and context of the Action;
 - b) Activities carried out during the reporting period (i.e. directly related to the Action and described in this Agreement) and broken down by operation if the Action covers more than one operation;
 - c) Information on the implementation of the Visibility and Communication Plan (Annex VI) and any additional measures taken to identify the EU as source of financing;
 - d) The accounts drawn up for the costs incurred in the execution of the activities entrusted. Such financial reports shall include information on legal commitments and costs incurred.
 - e) Difficulties encountered and measures taken to overcome problems;
 - f) Changes introduced in implementation;
 - g) Achievements and results measured in accordance with the indicators to measure achievements prescribed in Annex I;
 - h) A summary of any controls carried out and available final audit reports in line with the Organisation's policy on disclosure of such controls and audit reports. Where errors and weaknesses were identified, analysis of their nature and extend as well as information on corrective measures should also be provided;
 - i) Control measures carried out on Sub-delegatees. In case weaknesses are detected, information on their nature and extent as well as corrective measures adopted;
 - j) When appropriate, a request for payment;
 - k) Work plan for the following period.

4.8 The final report shall include:

For the last reporting period:

- a) All the information requested in Article 4.7 a) to k).

As concerns the overall implementation of the Action:

- b) A full summary of the Action's income and payments received;
- c) Where applicable, an overview of any funds unduly paid or incorrectly used of which the Organisation could or could not recover itself;
- d) Description of the results generated (broken down by operation if the Action covers more than one operation) and their impact in relation to the objectives of the Action using the indicators to measure achievements prescribed in Annex I;
- e) The exact link to the webpage where, according to Article 10.2, information on beneficiaries is available;
- f) If relevant, details of transfers of equipment, vehicles and major supplies mentioned in Article 11;
- g) The costs of funding Budget Implementation Tasks.

4.9 The Organisation shall submit a report for every twelve-month period as from the commencement of the Implementation Period. Reporting, narrative as well as financial, shall cover the whole Action, regardless of whether this Action is entirely or partly financed by EU funds. Progress Reports shall be submitted within 60 calendar days after the period covered by such report, and the final report shall be submitted at the latest six months after the end of the Implementation Period.

Management declaration and audit or control opinion

- 4.10 Every report shall be accompanied by a management declaration in accordance with the template in Annex VII;
- 4.11 In case the Organisation is not an international organisation, it shall provide the Commission, within one month from submitting each report with an opinion by an independent audit body in accordance with Article 4.13.

- 4.12 In case the Organisation is an international organisation, it shall provide the Commission, within six months from submitting each report, with an opinion by an independent audit body in accordance with Article 4.13 or an opinion by the internal audit or control body of the Organisation.
- 4.13 The opinion referred to in Articles 4.11 and 4.12 shall be drawn up in accordance with internationally accepted audit standards, establishing whether the accounts give a true and fair view, whether the control systems in place function properly, and whether the underlying transactions are legal and regular. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration mentioned above.

Exchange rate

- 4.14 The reports shall be submitted in Euro. When the Organisation's accounting requirements impose the use of another currency, reports will be submitted both in Euro and in the holding currency used by the Organisation. For the purpose of reporting, conversion into Euro shall be made using one of the options listed below and specified in Article 4.3 of the Special Conditions:
- a) The rate applied by the European Central Bank as published in the Official Journal in force on the day on which the EU contribution was recorded in the accounts of the Organisation¹ ;
 - b) The Organisation's exchange rate, according to its accounting principle, on the day on which the EU contribution was recorded in the accounts of the Organisation.
- 4.15 When the EU contribution is made in several instalments, the expenditure incurred will be reported using the exchange rate at which each instalment was recorded, unless otherwise provided in the Special Conditions.

Failure to comply with reporting obligations

- 4.16 If the Organisation is unable to present a progress or final report and the accompanying documents by the end of the deadline set out in Article 4.9, the Organisation shall inform the Commission in writing of the reasons, and shall provide a summary of the state of progress of the Action and a provisional work plan for the next period. If the Organisation fails to comply with this obligation for two (2) months, following the deadline set out in Article 4.9, the Commission may terminate the Agreement in accordance with Article 16, refuse to pay any outstanding amount and recover any amounts unduly paid.

Article 5: Liability towards third parties

- 5.1 The Commission shall not under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Organisation while the Action is being carried out or as a consequence of the Action. The Commission shall not therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
- 5.2 Subject to the rules governing the Organisation's privileges and immunities, if applicable, the Organisation shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them in respect of or arising out of the implementation of the Action.
- 5.3 The Organisation shall discharge the Commission of all liability associated with any claim or action brought as a result of an infringement of the Organization's rules and regulations committed by the Organisation or Organisation's employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights.

Article 6: Conflict of interest

- 6.1 The Organisation shall refrain from any action which may give rise to a conflict of interest.
- 6.2 There is a conflict of interest where the impartial and objective exercise of the functions of any person implementing the Agreement is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another party, such as a Contractor or Grant Beneficiary.

¹ Available at: <http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html>

Article 7: Confidentiality

- 7.1 The Commission and the Organisation shall preserve the confidentiality of any document, information or other material directly related to the implementation of the Action that is confidential. Subject to Article 22, the Commission may have access upon request, on a confidential basis, to such documents, information or other material. The confidential nature of a document shall not prevent from it being communicated on a confidential basis when the rules binding upon the Parties so require.
- 7.2 The Parties shall obtain each other's prior written consent before publicly disclosing such information unless:
- a) the concerned Party agrees to release the other Party from the earlier confidentiality obligations;
 - b) the confidential information becomes public through other means than in breach of the confidentiality obligation through disclosure by the Party bound by that obligation;
 - c) the disclosure of confidential information is required by law. In no case can disclosure put into jeopardy the Organisation's privileges and immunities or the safety and security of the Organisation's staff.
- 7.3 The Parties shall remain bound by confidentiality for at least five years after the End Date of the Agreement.

Article 8: Data Protection

- 8.1 The Organisation shall ensure a reasonable protection of personal data. Personal data means any information related to a natural person. Any operation performed upon personal data, such as collection, recording, organisation, storage, adaption or alteration, retrieval, consultation, use, disclosure, erasure or destruction, shall be based on the rules and procedures of the Organisation and shall only be done as far as it is necessary for the performance of the mandate of the Organisation.
- 8.2 In particular, the Organisation shall take appropriate technical and organisational security measures concerning the risks inherent in any such operation and the nature of the information relating to the natural person concerned, in order to:
- a) Prevent any unauthorised person from gaining access to computer systems performing such operations, and especially unauthorised reading, copying, alteration or removal of storage media, this includes unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored information;
 - b) Ensure that authorised users of an IT system performing such operations can access only the information to which their access right refers;
 - c) Design its organisational structure in such a way that it meets the above requirements.

Article 9: Communication and visibility

- 9.1 The Organisation shall implement the Communication and Visibility Plan detailed in Annex VI.
- 9.2 Unless the Commission requests or agrees otherwise, the Organisation shall take all necessary measures to publicise the fact that the Action has received funding from the EU. Information given to the press and to the Final Beneficiaries, as well as all related publicity material, official notices, reports and publications shall acknowledge that the Action was carried out "with funding by the European Union" and shall display the EU logo (twelve yellow stars on a blue background) in an appropriate way. Such measures shall be carried out in accordance with the Communication and Visibility Manual for EU External Actions² published by the Commission or any other guidelines agreed between the Commission and the Organisation. All publications by the Organisation pertaining to the Action, in whatever form and whatever medium, including the internet, shall carry the following disclaimer: "This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union."
- 9.3 If during the implementation of the Action, equipment, vehicles or major supplies are purchased using EU funds, the Organisation shall display appropriate acknowledgement on such vehicles, equipment or major supplies, including the display of the EU logo (twelve yellow stars on a blue background),

² http://ec.europa.eu/euroDeaid/work/visibility/documents/communication_and_visibility_manual_en.pdf

provided that such display does not jeopardise the safety and security of the Organisation or the Organisation's staff.

- 9.4 The acknowledgement and the EU logo shall be of such a size and prominence as to be clearly visible in a manner that shall not create any confusion regarding the identification of the Action as an activity of the Organisation, the ownership of the equipment, vehicles or major supplies by the Organisation.
- 9.5 If in application of Article 11, the equipment, vehicles or major supplies purchased using EU funds have not been transferred to the local authorities, local Sub-delegatees, local Grant Beneficiaries or Final Beneficiaries when submitting the final report, the visibility requirements as regards this equipment, vehicles or major supplies (in particular display of the EU logo) shall continue to apply between submission of the final report and the end of the Action, if the latter is longer.
- 9.6 Publicity pertaining to the EU contribution shall quote the EU contribution in Euro (€ or EUR). In case of international organisations, the publications and reports of the Organisation prepared in accordance with its rules and procedures are excluded from this provision.
- 9.7 The Organisation accepts that the Commission publishes in any form and medium, including on its internet sites, the name and address of the Organisation, the purpose and amount of the EU contribution. The Commission may forego such publicity if disclosure of the above information would risk threatening the Organisation's safety or harming its interests.
- 9.8 The Organisation shall ensure that reports, publications, press releases and updates relevant to the Action are communicated to the Commission as and when they are issued.

Article 10: Ex-post publication of information on Contractors and Grant Beneficiaries

- 10.1 The Organisation shall publish, on an annual basis, on its internet site, the following information on procurement contracts exceeding EUR 15.000 and all grants financed by the EU: title of the contract/project, nature and purpose of the contract/project, name and locality of the Contractor or Grant Beneficiary and amount of the contract/project. The term "locality" shall mean the address for legal persons and the Region on NUTS³ 2 level, or equivalent, for natural persons. This information shall not be published for scholarships paid to natural persons and other direct support paid to natural persons in most need. This information shall be published with due observance of the requirements of confidentiality and security.
- 10.2 The Organisation shall provide to the Commission the address of the internet site where this information can be found and shall authorise the publication of such address on the Commission's internet site.
- 10.3 If the Action is a Multi-Donor Action, the publication of information on Contractors and Grant Beneficiaries shall follow the rules of the Organisation.

Article 11: Ownership, right to use and transfer of results and equipment

Ownership

- 11.1 To the extent legally possible, ownership, title and industrial and intellectual property rights of the results of the Action and the reports and other documents relating to it shall vest in the Organisation, as the case may be together with third parties or as otherwise agreed by the Organisation.

Right to use

- 11.2 Notwithstanding the provisions of the first paragraph and subject to Article 7, the Organisation shall grant, and shall act to ensure that the third party concerned (Sub-delegatee, Grant Beneficiary or Contractor) grants the Commission the right to use free of charge all results of the Action, whatever their form, provided it does not breach existing industrial and intellectual property rights.

Transfer

- 11.3 The equipment, vehicles and major supplies purchased with the EU contribution in the framework of the Action shall be transferred to local authorities, local Sub-delegatees, local Grant Beneficiaries or to the Final Beneficiaries, at the latest when submitting the Final Report.

³ Nomenclature of Territorial Units for Statistics, available at:
<http://ec.europa.eu/eurostat/ramon>.

- 11.4 The documentary proof of those transfers shall be kept for verification for the duration and along with the documents mentioned in Article 22.3.
- 11.5 By way of derogation from Article 11.3, the equipment, vehicles and major supplies purchased with the EU contribution in the framework of Multi-Donor Actions which continue after the end of the Implementation Period may be transferred at the end of the project or programme. The Organisation shall use the equipment, vehicles and major supplies to the benefit of the Final Beneficiaries. The Organisation shall inform the Commission on the end use of the equipment, vehicles and major supplies in the Final Report.
- 11.6 In the event that there are no local authorities, local Sub-delegatees or Final Beneficiaries to whom the equipment, vehicles and major supplies could be transferred, the Organisation may transfer them to another Action funded by the EU or, exceptionally, retain ownership of the equipment, vehicles and supplies at the end of the Action. In such cases, it shall submit a justified written request with an inventory listing the items concerned and a proposal concerning their use in due time and at the latest with the submission of the Final Report. In no event may the end use jeopardize the sustainability of the Action.

Article 12: Evaluation and monitoring of the Action

- 12.1 The Organisation shall invite representatives of the Commission to participate in the main monitoring and evaluation missions relating to the performance of the Action. The Organisation shall report the results of such missions to the Commission.
- 12.2 Article 12.1 is without prejudice to any evaluation or monitoring mission which the Commission as a donor may wish to perform. Evaluation and monitoring missions by representatives of the Commission shall be planned and completed in a collaborative manner between the staff of the Organisation and the Commission's representatives, keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement. The Commission and the Organisation shall agree on procedural matters in advance. The Commission shall make the draft report of the evaluation or monitoring mission available to the Organisation for comments prior to final issuance. The Commission shall send the final report to the Organisation once issued.

Article 13: Amendment to the Agreement

- 13.1 Any amendment to this Agreement, including its annexes, shall be set out in writing in a rider signed by both Parties. This Agreement can only be amended during the Execution Period.
- 13.2 The requesting Party shall submit in writing to the other Party any request for amendment to this Agreement, including its annexes.
- 13.3 The requesting Party shall request any amendment 30 calendar days before the amendment is intended to enter into force and no later than 30 calendar days before the end of the Execution Period, unless there are special circumstances duly substantiated by it and accepted by the other Party. The other Party shall notify its decision regarding the amendment proposed no later than 30 calendar days after the date when the amendment request was received.
- 13.4 By derogation from Articles 13.1, 13.2 and 13.3, where an amendment to Annex I and/or Annex III does not affect the basic purpose of the Action, and the financial impact is limited to a transfer within a single budget heading, including cancellation or introduction of an item, or a transfer between budget headings involving a variation (as the case may be in cumulative terms) of 15 % or less of the amount originally entered (or as amended by a written rider) in relation to each concerned heading, the Organisation may unilaterally amend Annex I and/or Annex III and shall inform the Commission accordingly in writing. This method shall not be used to amend the contingency reserve.
- 13.5 Changes of address and of bank account shall be notified in writing to the Commission. Where applicable, changes of bank account must be specified in the request for payment, using the Commission's financial identification form attached as Annex IV.

Article 14: Contracting and Central Exclusion Database

Contracting

- 14.1. The procurement and grant contracts implementing the EU Contribution shall be signed by the contracting deadline set out in Article 2.5 of the Special Conditions. After the Contracting Deadline up to submission of the final report, only contracts following early termination of an existing contract and contracts concerning final audits and evaluation may be signed.
- 14.2 Procedures to award contracts, as referred to in Article 14.1, may have been initiated and contracts may be signed by the Organisation before the start of the Implementation Period.
- 14.3 Unless otherwise provided for in the Special Conditions, the origin of the goods and the nationality of the organisations, companies and experts selected for carrying out activities in the Action shall be determined in accordance with the Organisation's relevant rules. However, and in any event, goods organisations, companies and experts eligible under the applicable regulatory provisions of the European Union shall be eligible.
- 14.4 The Organisation shall adopt reasonable measures, in accordance with its own rules and procedures, to ensure that potential candidates or tenderers and applicants shall be excluded from the participation in a procurement or grant award procedure and from the award of a procurement contract or grant financed by EU Funds, if these persons:
- a) are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgement of a competent authority which has the force of res judicata;
 - c) or persons having powers of representation, decision making or control over them have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity detrimental to the EU's financial interests;
 - d) are guilty of misrepresentation in supplying the information required as a condition of participation in the procedure or if they fail to supply this information;
 - e) are subject to a conflict of interests.

Central Exclusion Database

- 14.5 The Organisation shall inform the Commission if it has found that a third party is in one of the situations referred to in Article 14.4.c. The information shall be transmitted using the ad-hoc template⁴, which shall be sent to the Commission with an indication of the duration of the exclusion, decided on the basis of the judgement which is being notified. Copy of the definitive judgement and where available and applicable of the necessary documents establishing the legal existence of the entity concerned shall also be provided. The Commission shall introduce this information in the Central Exclusion Database. The Organisation shall inform whenever information transmitted needs to be rectified, updated or removed. The Organisation shall ensure that the entity concerned is informed that its data was transmitted to the Commission and may be included in the Central Exclusion Database.
- 14.6 Without prejudice to the power of the Commission to exclude an entity from future contracts and grants financed by the EU, the Organisation may impose financial penalties to Contractors and Grant Beneficiaries according to its own rules and procedures ensuring the right of defence of the Contractor or Grant Beneficiary.
- 14.7 The Organisation may take into account, as appropriate and on its own responsibility the information contained in the Central Exclusion Database, when awarding contracts. Access to the information can be provided through the liaison point(s) or via consultation to the Commission as referred in Article 5.6 of the Special Conditions⁵ when the Organisation applies the adequate data protection measures as provided in the Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18

⁴ <http://ec.europa.eu/euroDa/id/comDanion/annexes.do?annexId=92>

⁵ The Organisation shall be allowed to have direct access to the Central exclusion database through a liaison point when the Organisation certifies to the Commission service responsible that it applies the adequate data protection measures as provided in the Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

14.8 In the event of failure to comply with Article 14.1 to 14.5, the Commission may declare the related costs ineligible for funding by the EU.

Article 15: Suspension

Suspension of payments and suspension of the time limit of a single payment request

- 15.1 The Commission may suspend payment, fully or partly, if:
- a) The Commission, on the basis of information it received, has serious concerns and needs to verify whether:
 - i) Substantial Errors, Irregularities, fraud or breach of obligations committed by the Organisation or the Sub-delegatees in the procedure of their selection, on their pillars assessment or in the implementation of the Action, including regarding the implementation of the Communication and Visibility plan, have occurred;
 - ii) there are significant deficiencies in the functioning of the Organisation or the Sub-delegatees' Internal Control system or systemic errors are detected which call into question the reliability of the Organisation or the Sub-delegatee's Internal Control system or the legality and regularity of the underlying transactions;
 - b) The suspension is necessary to prevent significant damage to the EU financial interests;
 - c) The Commission has evidence that the Organisation or Sub-delegatees have committed systemic or recurrent errors, Irregularities, fraud or breach of obligations under other agreements funded by EU funds provided that those errors, Irregularities, fraud or breach of obligations have a material impact on this Agreement;
- 15.2 In the situations listed in 15.1 the Commission shall immediately inform the Organisation about the suspension of payments and the reasons therefor. The Organisation shall provide its observations within 30 calendar days. The Commission shall, as soon as possible and at the latest within 30 calendar days from the receipt of the observations, notify its conclusions and without prejudice to the termination of the Agreement according to Article 16.2, resume payments or recover amounts unduly paid in line with Article 21 or, in duly justified circumstances, confirm the suspension for a maximum period of 30 additional calendar days.
- 15.3 In the situations listed in Article 16.1, the Commission may suspend payments as a precautionary measure informing the Organisation immediately in writing. The procedure described in Article 16.2 shall then apply.
- 15.4 The Commission may suspend the time limit of payment of a single payment request by notifying the Organisation that either:
- a) The amount is not due;
 - b) The appropriate supporting documents have not been provided;
 - c) The information that comes to the notice of the commission puts in doubt the eligibility of the expenditure included in a payment request.
- 15.5 In the situations listed in Article 15.4 the Commission shall notify to the Organisation as soon as possible the reasons for the suspension, specifying the additional information required. Suspension shall take effect on the date when the Commission sends the notification stating the reasons for the suspension. The remaining payment period shall start to run again from the date on which the Commission notifies that the requested information or revised documents are received or the necessary further checks are carried out.

Suspension of the Agreement by the Commission

- 15.6 The Commission may request in writing the Organisation to immediately suspend the implementation of this Agreement if circumstances so require, in particular:
- a) when a relevant EU Decision identifying a violation of human rights has been adopted⁶;

For instance, (i) a decision pursuant to Article 37 of Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing Instrument for Development Cooperation (OJ L 378, 27.12.2006, p. 41), Article 28 of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (OJ L 310, 9.11.2006, p. 1-14), or Article 96 of the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000, as revised on 25 June 2005 and 23 June 2010; or (ii) a Commission decision suspending cooperation as a precautionary measure.

in cases such as crisis entailing a change of EU policy.

- 15.7 Following a written notification by the Commission, the Parties shall resume the implementation of the Agreement once the conditions allow. During the suspension period the Organisation shall be entitled to the reimbursement of the minimum costs necessary for a possible resumption of the Agreement. This is without prejudice to any amendments to the Agreement which may be necessary to adapt the Action to the new implementing conditions, including, if possible, the extension of the implementation period and the contracting deadline, or to the termination of the Agreement in accordance with Article 16.3.

Suspension of the Action by the Organisation, Force Majeure

- 15.8 The Organisation may decide or be invited to suspend the implementation of all or part of the Action if unforeseen circumstances beyond the control of the Parties so require, in particular in cases of Force Majeure. The Organisation shall inform the Commission immediately and provide all the necessary details, including the measures taken to minimise any possible damage, and the foreseeable effect and date of resumption.
- 15.9 Neither of the Parties shall be held liable for breach of its obligations under the Agreement if it is prevented from fulfilling them by Force Majeure, provided it takes any measure to minimise any possible damage.
- 15.10 The Parties shall minimise the duration of the suspension and the Organisation shall, resume implementation of the Agreement once the conditions allow, with the prior written approval of the Commission. The Implementation Period is automatically extended by an amount of time equivalent to the duration of the suspension. The contracting deadline is automatically extended by an amount of time equivalent to the duration of the suspension in case of suspension by Force Majeure.
- 15.11 The previous paragraph is without prejudice to any amendments to the Agreement which may be necessary to adapt the Action to the new implementing conditions or to the termination of the Agreement in accordance with Article 16.3.

Article 16: Termination and end date of the Agreement

- 16.1 Without prejudice to any other provision of these General Conditions, the Commission may terminate the Agreement if the Organisation or the Sub-delegatees:
- a) Fail to fulfil a substantial obligation incumbent on it under the terms of the Agreement;
 - b) Undergo legal, financial, technical or organisational changes likely to substantially affect in a negative way the implementation and management of the Action or call into question the decision by which the EU contribution is awarded;
 - c) Are guilty of misrepresentation or submit false or incomplete statements to obtain the EU contribution or provide reports that do not reflect reality to obtain or keep the EU contribution without cause;
 - d) Are bankrupt or being wound up, or is subject to any other similar proceedings;
 - e) Are guilty of grave professional misconduct proven by any justified means;
 - f) Have intentionally or by negligence committed a substantial irregularity in performing the Agreement, or in the event of fraud, corruption or any other illegal activity by the Organisation or the Sub-delegatees to the detriment of the EU's financial interests;
 - g) Fail to comply with the reporting obligations stated in Article 4.9;
 - h) Have committed any of the failings described in Article 15.1.
- 16.2 In the circumstances mentioned in Article 16.1, the Commission shall enter into discussions with the Organisation. Failing agreement on a solution within 30 calendar days, the Commission may terminate the Agreement by serving 7 calendar days written notice and without paying compensation of any kind to the Organisation. In that event, the Commission may demand full or partial repayment of any amounts unduly paid, after allowing the Organisation to submit its observations.
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- 16.3 If, at any time, either Party believes that the purposes of the Agreement can no longer be effectively or appropriately carried out due to the reasons described in 15.6.a, 15.6.b and 15.8, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement by serving 60 calendar days written notice. In this case, the Organisation shall be entitled to (i) payment only for the part of the Action carried out, and (ii) reimbursement of legal commitments it entered into for implementing the Action before the written notice on termination was submitted to the other Party and which the Organisation cannot reasonably terminate on legal grounds. The Commission shall recover the remaining part in accordance with Articles 20 and 21.

End date

- 16.4 Unless the Agreement is terminated earlier pursuant to Article 16 of the General Conditions, it shall end by the "end date", which is the moment of the payment of the balance by the Commission in accordance with Article 20 of the General Conditions or when the Organisation repays any amounts paid in excess of the final amount due pursuant to Article 21 of the General Conditions. In cases where there is no final payment by the Commission or final repayment by the Organisation, the "end date" shall occur 18 months after the end of the Implementation Period as defined in Article 2 of the Special Conditions. If any of the parties apply the dispute settlement procedure provided for in Article 17, the "end date" is postponed until the completion of such procedure.

Article 17: Applicable law and Settlement of Disputes

- 17.1 The Parties shall endeavour to amicably settle any dispute or complaint relating to the interpretation, application or fulfilment of the Agreement, including its existence, validity or termination.
- 17.2 When the Organisation is not an international organisation, this Agreement is governed by EU law, complemented if necessary by the relevant provisions of Belgian law. In default of amicable settlement, any Party may refer the matter to the General Court of the EU and, in the event of appeal, the Court of Justice of the EU.
- 17.3 When the Organisation is an international organisation:
- a) Nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities accorded to any Party by its constituent documents or international law.
 - b) In default of amicable settlement in accordance with paragraph 17.1 above, any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of this Agreement, including its existence, validity or termination, shall be settled by final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organizations and States, as in effect on the date of this Agreement. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

Article 18: Eligible costs

Conditions for the eligibility of implementation costs

- 18.1 Eligible costs incurred by the Organisation shall meet the following criteria:

- a) They are necessary for carrying out the Action. They are directly attributable to the Action and arise as a direct consequence of its implementation;
- b) They are actual, i.e. they represent real costs definitely and genuinely borne by the Organisation.
- c) They are reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency;
- d) They are incurred during the Implementation Period, whatever the time of disbursement:
 - i) Costs relating to grants, services and works shall relate to activities performed during the Implementation Period. Costs relating to supplies shall relate to their delivery and installation during the Implementation Period. Consequently, cash transfers from the Organisation to the Sub-Delegatee(s), payment of an advance (pre-financing) or entering into any commitment for future delivery of services, works or supplies (procurement) or for future execution of activities (grants), such as signing a contract or placing an order, are not incurred costs;

- ii) Except for multi-donor actions, pending payments corresponding to incurred costs shall either be paid before the submission of the Final Report or they shall be listed in the Final Report together with the estimated date of payment;
- iii) Costs relating to audit and evaluation may be incurred after the Implementation Period;
- e) They are identifiable, in particular being recorded in the accounting records of the Organisation and determined according to the Organization's accounting system. They are backed by effective supporting evidence (originals, as the case may be in electronic form) and are verifiable pursuant to Article 22;
- f) They are indicated in the estimated budget in Annex III distinguishing, to the extent possible, the costs of budget implementation tasks;
- g) They comply with the applicable tax and social legislation.

Implementation costs

18.2 The following categories of costs are eligible provided that they satisfy the conditions of eligibility set out in Article 18.1:

- a) The costs of the Organisation's staff directly assigned to the implementation of the Action corresponding to salaries plus social security charges and other statutory costs included in the remuneration of the staff and provided in accordance with the Organisation's policy. The Organization shall retain evidence regarding the time worked by the staff be that through a time- recording system, a reliable method of apportionment or through an employment contract stipulating the precise assignment to the Action;
- b) The costs of travel by the staff directly assigned to the implementation of the Action and related subsistence allowances, provided in line with the usual practices of the Organisation;
- c) The costs of funding by the Organisation to Contractors and Grant Beneficiaries for implementation of the Action described in Annex I, such as:
 - i) Costs for equipment (new or used) which are directly attributable to the Action;
 - ii) Costs for goods and services (transport, storage and distributing, rent of equipment, etc.) which are directly attributable to the Action;
 - iii) Costs of consumables and supplies directly attributable to the Action;
- d) Taxes, duties and charges, including VAT, paid by the Organisation in relation to the costs referred to in point (a), (b) or (c), provided the Organisation cannot recover them.

18.3 The costs referred to in 18.2.a, 18.2.b and 18.2.c, attributable to the functioning of the field offices necessary to implement the Action, are eligible in proportion to the amount of activity directly attributable to the Action.

Remuneration

18.4 A fixed percentage of the eligible implementation costs, as stated in Article 3.2 of the Special Conditions and not exceeding 7%, may be claimed by the Organisation, or the sub-delegatees, as remuneration.

18.5 Subject to the above, for comparable Actions and Actions where there is more than one donor the amount claimed as remuneration shall not, in percentage terms, be higher than for other comparable contributions.

18.6 The remuneration does not need to be supported by accounting documents.

Ineligible costs

18.7 The following costs are ineligible in addition to any other costs not fulfilling the conditions set out in Article 18.1:

- a) Debt and debt service charges;
- b) Provisions for losses or debt;
- d) Expenditure financed by other sources;
- e) Purchases of land or buildings;
- f) Exchange losses;
- g) Contributions in kind. The cost of staff assigned to the Action is not a contribution in kind and may be considered as co-financing in the Budget when paid for by the Organisation or the Sub- delegatees.

Sub-delegation

18.8 The costs incurred by the Sub-delegatees are eligible under the same conditions than those of the Organisation.

Article 19: Payments

- 19.1 Payment procedures as set forth in Article 4 of the Special Conditions shall be:
- a) The Commission shall provide pre-financing as set out in Article 4.2 of the Special Conditions within 30 calendar days of receiving this Agreement signed by both Parties.
 - b) When the Implementation Period exceeds 12 months, each further instalment shall be provided as per the amount set out in the Article 4.2 of the Special Conditions provided that at least 70% of the immediately preceding instalment (and 100% of previous instalments if any) has been subject to a legal commitment between the Organisation or the Sub-delegatees and a third party as proven by the relevant report;
 - c) The Commission shall pay the instalments and final payment within 90 calendar days of receiving a payment request accompanied by a progress or final report.
- 19.2 Reports shall be presented in accordance with Article 4. The payment shall be made upon approval of the reports. The final amount shall be established in line with Article 20. Approval of the requests for payment and of the accompanying reports shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information contained therein.
- 19.3 The Commission shall make payments in Euro into the bank account referred to in the financial identification form in Annex IV.

Late payment interest

- 19.4 In case of late payment of the amounts stated in Article 4 of the Special Conditions the following conditions apply:
- a) If the Organisation is not a Member State of the EU, on expiry of the time limits for payments specified in Article 19.1, the Organisation shall receive interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in euros. The reference rate shall be the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the Official Journal of the EU, increased by three and a half percentage points;
 - b) The suspension of payments by the Commission in accordance with Article 15 shall not be considered as late payment;
 - c) Interest on late payment shall cover the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article 19.1. Any partial payment shall first cover the interest;
 - d) By way of exception to Article 19.4.c, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, the Commission shall pay such interest to the Organisation only upon request from the Organisation submitted within two months of it receiving late payment;
 - e) The interest shall not be treated as an income for the purposes of determining the final amount of the EU contribution within the meaning of Article 20.

Article 20: Final Amount

- 20.1 The Commission shall determine the final amount of the EU contribution when approving the Organisation's final report. Without prejudice to Article 22, the Commission shall then determine the balance still due to the Organisation or the amount to be recovered.
- 20.2 Without prejudice to Article 20.5 the final amount shall be the lower of the following two amounts:
- a) The sum of the eligible implementation costs approved by the Commission and the related remuneration;
 - b) The maximum EU contribution referred to in Article 3.1 of the Special Conditions.
- 20.3 The Organisation accepts that the contribution under this Agreement shall be limited to the amount required to balance income generated by the Action, donor contributions and eligible costs.

- 20.4 The Commission shall recover pursuant to Article 21 any amount paid in excess.
- 20.5 Where the Action is not implemented, is not implemented in line with the Agreement, is implemented partially or late, or if the Organisation has substantially breached a contractual obligation under the Agreement, for example on Communication and Visibility, the Commission may, after allowing the Organisation to submit its observations, reduce the EU contribution accordingly.

Article 21: Recovery

- 21.1 Where an amount is to be recovered under the terms of the Agreement, the Organisation shall repay in Euro to the Commission the amount due.
- 21.2 Before recovery, the Commission shall formally notify the Organisation of its intention to recover any undue amount, specifying the amount and the reasons for recovery and inviting the Organisation to make any observations within 30 calendar days from the date of receipt of the notification. If the Organisation does not submit any observations or if, despite the observations submitted by the Organisation, the Commission decides to pursue the recovery procedure, the Commission may confirm recovery by formally notifying to the Organisation a debit note ("debit note"), specifying the terms and the date for payment.
- 21.3 If the Organisation does not make the payment by the date specified in the debit note, the Commission shall recover the amount due:
- a) By offsetting it against any amounts owed to the Organisation by the EU;
 - b) By taking legal action in accordance with Article 17, or, where applicable, by adopting an enforceable decision in accordance with Article 299 of the Treaty on the Functioning of the EU;
 - c) In exceptional circumstances, justified by the necessity to safeguard the financial interests of the EU, the Commission may recover by offsetting before the deadline specified in the debit note without the Organisation's prior consent.
- 21.4 If the Organisation fails to repay by the due date, the amount due shall be increased by late payment interest calculated at the rate indicated in Article 19.4.a. The interest shall be payable for the period elapsing from the day after the expiration of the time limit for payment up to and including the date when the Commission actually receives payment in full of the outstanding amount. Any partial payment shall first cover the interest.
- 21.5 Bank charges incurred from the repayment of amounts due to the Commission shall be borne entirely by the Organisation.

Article 22: Accounts, technical and financial checks.

Accounting

- 22.1 The Organisation shall keep accurate and regular records and accounts of the implementation of the Action.
- 22.2 Where feasible, the Organisation shall maintain the EU contribution in Euro denominated bank accounts. The Organisation may pool the EU contribution together with contributions from other donors. They may be exchanged for other currencies in order to facilitate their disbursement. If interest in pre-financing is due the accounting methods of the Organisation shall make possible to identify the payments by the Commission and the interest or other benefits yielded by those funds.

Archiving

- 22.3 For a period of five years from the End Date defined in Article 16.4 or up to the date of the limitation period of any claim pursuant to the applicable law governing the Agreement and any contracts or grants concluded under the Agreement if the latter last longer, the Organisation shall keep and make available according to Article 22.4 all relevant financial information in its original form (electronic as the case may be) or, in exceptional and duly justified cases, certified copies of original documents related to the Agreement and on any procurement contracts or grant agreements concluded under this Agreement.

Access

- 22.4 The Organisation shall allow the Commission and the European Court of Auditors, or any other representative authorised by the Commission to conduct desk reviews, and on-the-spot checks on the use made of the EU contribution (including procedures for the award of procurement contracts and

- grants) on the basis of supporting accounting documents and any other documents related to the financing of the Action.
- 22.5 The Organisation agrees that OLAF may carry out on-the-spot checks, investigations and verifications in accordance with the procedures laid down by EU law for the protection of the financial interests of the EU against fraud and other Irregularities.
- 22.6 To that end, the Organisation undertakes to grant officials of the Commission, OLAF and the European Court of Auditors and their authorised agents access to sites and premises at which operations financed under the Agreement are carried out, and to any documents and computerised data concerning the technical and financial management of those operations. The Organisation shall take all necessary measures to facilitate these checks. The Organisation shall grant access by authorised agents of the Commission, OLAF and the European Court of Auditors on conditions of confidentiality, without prejudice to public law obligations to which it is subject. Documents must be accessible and filed in a manner permitting inspection, the Organisation being bound to inform the Commission, OLAF or the European Court of Auditors of the exact location at which they are kept.
- 22.7 The Commission shall inform the Organisation of the planned on-the-spot missions by agents appointed by the Commission or the Court of Auditors in due time in order to ensure adequate procedural matters are agreed upon in advance.
- 22.8 If the Organisation is an international organisation the desk reviews, investigations and on-the-spot checks referred to in Article 22 shall refer to a verification which shall be performed in accordance with the verification clauses agreed with the Commission. If the Organisation is not an international organisation an investigation or audit shall be performed. This is without prejudice to any cooperation agreement between OLAF and the Organisation's anti-fraud bodies.