

European Commission

Directorate-General for International Cooperation and Development

PAGODA MANUAL

applicable to contractual arrangements of external Actions under the
PAGODA templates

The Manual is meant to provide guidance on the interpretation of the contractual provisions of the PAGODA template.

It is not legally binding, nor can it be relied upon to challenge a Contracting Authority's decision, judicially or otherwise.

With respect to the contractual arrangements with International Organisations and Member State Agencies, specific guidance can be found in the respective Framework Administrative Agreement of each Organisation (whenever applicable), namely, in its Part concerning interpretative provisions.

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PAGODA General Conditions

PART I: Common provisions applicable to PA Grant and Delegation Agreements

| Text of the Article | | Interpretation/ Guidelines on application |
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| Article 1: Definitions | | |
| Action: | the cooperation programme or project partly or wholly financed by the EU, which may be carried out by the Organisation as described in Annex I. | PAGODA template is applicable for Actions of both internal and external policies. <u>This Manual only covers External Actions.</u> |
| Affiliated Entity: | an entity having a structural link with the Organisation or a Co-Beneficiary, in particular a legal or capital link, and implementing part of the Action under a PA Grant Agreement. | This definition is only relevant for PA Grant Agreements. |
| Budget Implementation Tasks: | under a Delegation Agreement, tasks consisting of carrying out procurement and Grant award procedures, and awarding, signing and executing the resulting Procurement Contracts and Grant contracts, notably accepting deliverables, carrying out payments and recovering the funds unduly paid, where two conditions are met: i) works, services, supplies and other benefits are directly provided to the partner country or to any other relevant beneficiary population of the Action; and ii) a margin of discretionary power (not involving policy choices) is delegated to implement the Action. | The Budget Implementation Tasks (BIT) under a Delegation Agreement refers to Indirect Management, which finds its legal basis in the Articles 58, 60 and 61 of the Financial Regulation. For Delegation Agreements, Part I (Articles 1-17) and II (Articles 18-23) of these General Conditions shall apply, as well as the Special Conditions for Delegation Agreement and its Annexes. This definition is only relevant for Delegation Agreements. |
| Central Exclusion Database: | database of all legal and natural persons excluded from EU funding set up by the European Commission under Regulation (EC, Euratom) No. 1302/2008, of 17 December 2008, on the central exclusion database (OJ L 344/12, 20.12.2008). | This definition is only relevant for Delegation Agreements. The applicable provisions on Central Exclusion Database within the scope of PAGODA are set out in Article 23 of the General Conditions. |
| Co-Beneficiary: | an entity implementing part of the Action and being a party to the relevant PA Grant Agreement together with the Organisation. The Organisation normally signs the relevant PA Grant also on behalf of the Co-Beneficiaries. | |
| Contractor: | a natural or legal person with whom a Procurement Contract has been signed. | The Organisation shall ensure <u>Article 2.6 of the General Conditions</u> applies to Contractors. |
| Days: | All references to "days" are to calendar days. | |
| EU External Action: | Action financed under EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR and their predecessors. | Regarding EU External Actions, it is understood that: <u>EDF</u> shall mean European Development Fund; <u>DCI</u> shall mean Development and Cooperation Instrument; <u>ENI</u> shall mean European Neighbourhood Instrument; <u>IPA II</u> shall mean Instrument for Pre-accession Assistance; |

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| | | <p><u>INSC</u> shall mean Instrument for Nuclear Safety Cooperation;</p> <p><u>IcSP</u> shall mean Instrument contributing to Stability and Peace;</p> <p><u>PI</u> shall mean Partnership Instrument for cooperation with third countries;</p> <p><u>EIDHR</u> shall mean European Instrument for the promotion of Democracy and Human Rights worldwide;</p> <p>and their predecessors.</p> |
| 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 Grant Beneficiaries, Affiliated Entities, 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 cannot be invoked as force majeure, unless they stem directly from a relevant case of force majeure. Labour disputes, strikes or financial problems of the Organisation cannot be invoked as force majeure by the defaulting Party. | <p>The concept is applied in light of:</p> <p><u>Articles 12.9 and 12.10 of the General Conditions</u> ("Suspension of the Action") and article 13 regarding termination of the Agreement.</p> |
| Grant: | a direct financial contribution by way of donation under a Delegation Agreement given by the Organisation to finance third Parties activities. | <p>This definition is only relevant for Delegation Agreements.</p> <p>Note the difference between the "Pillar Assessed Grant" awarded by the Contracting Authority and the "Grant" awarded by the Organisation.</p> |
| Grant Beneficiary: | a natural or legal person to whom a Grant has been awarded under a Delegation Agreement. Grant Beneficiaries can sub-Grant and procure for the implementation of their activities. Third Parties receiving a financial contribution from the Organisation or a Co-Beneficiary or an Affiliated Entity under a PA Grant Agreement are not considered Grant Beneficiaries for the purpose of this Agreement. | <p>This term relates only to Delegation Agreements and it relates to entities which receive a grant from the Organisation (or Organisation's Sub-Delegatee or Co-Delegatee where such exist).</p> <p>Please note that the terminology of PAGoDA templates differs from the standard Grant contract for EU External Actions. Under the standard Grant contract, the "Grant" is understood as the financial contribution provided by the Contracting Authority whereas "Grant" as defined in these General Conditions relates to a financial contribution provided by the Organisation or a Sub-delegatee to a third party.</p> <p>Under Delegation Agreements, the Organisation shall ensure that Article 2.6 of the General Conditions applies also to Grant Beneficiaries.</p> |
| Impact: | primary and secondary, long term effects produced by the Action | |
| Indicator: | the quantitative and/or qualitative factor or variable that provides a simple and reliable means to measure the achievement of the Results of an Action. | Please see the general obligation set out in Article 2.1 of the General Conditions. |
| Internal Control System: | a process applicable at all levels of management designed to provide reasonable assurance of achieving the following objectives: | |

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| | <ul style="list-style-type: none"> 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. | |
| Outcome: | the likely or achieved short-term and medium-term effects of an Action's outputs; | |
| Output: | the products, capital goods and services which result from an Action's activities. | |
| Procurement Contract: | A contract signed between the Organisation, a Sub-delegatee, a Co-Beneficiary or an Affiliated Entity and a Contractor under which the Contractor provides services, supplies or works. | |
| Result: | the output, outcome or impact of an Action. | |
| Regulations and Rules: | regulations, rules, Organisational directives, instructions and other parts of the regulatory framework of the Organisation. | |
| Sound Financial Management: | principle overarching the implementation of this Agreement, namely economy, effectiveness and efficiency. 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. The principle of effectiveness concerns the attainment of the specific objectives and the achievement of the intended results. The principle of efficiency concerns the best relationship between resources employed and results achieved. | |
| Sub-delegatee: | a third party entrusted with Budget Implementation Tasks by the Organisation. Sub-delegation is only authorised for EU External Actions. If the Delegation Agreement does not concern an EU External Action, the provisions related to Sub-delegatees shall not apply. | <p>This definition is only relevant for Delegation Agreements.</p> <p>The applicable provisions on Sub-delegation within the scope of PAGoDA are set out in Article 21 of the General Conditions.</p> <p>Please use sub-delegation only where there is a clear transfer of decision-making power to the sub-delegatee. If the criteria to distribute funds is defined <i>a priori</i> by the Organisation reducing the margin of discretion of the partner, then this should not be considered a sub-delegation but rather a Grant.</p> |
| | | Additional Definitions not provided in Article 1: |

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| | <p>Multi donor Action: any Action where EU funds are pooled with at least one other donor, including those cases where the Organisation and the EU are the only two donors. This definition is only applicable to Delegation Agreements. In Article 1.4 of the Special Conditions for Delegation Agreement, it should be determined whether or not an Action is a Multi-donor Action. The notion can include funds given to the Action under the form of co-financing through grant contracts. Whenever possible, preference shall be given to projects which are carried out as a Multi-donor Action.</p> <p>Parallel co-financing: Any Action which is broken down into clearly identifiable sub Actions, each funded by a different co-financing partner. The funds of each donor are earmarked. Normally, each sub-Action will be subject to the rules and procedures imposed by the donor financing that sub-Action. In blending projects, an Action is broken into components. As long as one component is jointly co financed the whole action is considered multi donor action.</p> <p>For the purpose of Article 2.5 of the Special Conditions Delegation Agreement, it is understood that the number of months of the contracting deadline can exceed 36 months both in Actions classified as Multi-donor and Parallel Co-financing.</p> <p>Notional Approach: jointly co-financed Actions need to have costs eligible to the Commission to cover the Commission's contribution. What is ineligible for the Commission, may be eligible for other donors. Under the notional approach the EU cost eligibility requirements are met as long as the amount contributed by other donors is sufficient to cover the costs which are ineligible under EU rules. The use of the notional approach allows the EU to jointly co-finance an Action although some of the costs of this action are not eligible for EU funding. The use of the notional approach has to be reported (see Article 3.7.f)</p> <p>Priority of Consumption: in order to keep the Commission's presence in a long-term Action short, costs eligible to the Commission can be charged to the EU contribution in priority during the Commission's presence in the Action. Priority of consumption has to do with the release of further pre-financing, for clearing and for final payment. This means that costs incurred in a certain period (i.e. in the implementation period of EU agreement with the fund-managing entity) are attributed in priority to the EU contribution, and not divided among the donors pro rata, as otherwise might be expected. In this way, the financial participation of the EU can come to an end more quickly. In other words, during the implementation period set out in the EU's agreement with the Organisation, it is assumed that the EU funds are "consumed" first.</p> |
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| | <p>Rules of Nationality and Origin: Delegates (and recipients of PA Grants, when they co-finance) may use theirs as long as their rules do not exclude those which are set out in the specific EU Basic Act financing the Action.</p> <p>For further clarification of the abovementioned concepts, please refer to DEVCO COMPANION (namely, Chapter 3).</p> <p>Indirect Management: For further information on Indirect Management, please refer to Sections 3.1.1.2. and 3.1.1.3. of COMPANION.</p> <p>Pillar Assessment: For further information on Pillar Assessment, please refer to Sections 3.1.1.5 of COMPANION.</p> <p>International Organisations: The list of International Organisations assessed by the European Commission is in accordance with the new FR can be consulted here: https://myintracomm.ec.europa.eu/dg/devco/finance-contracts-legal/audit/compliance-assessment/Pages/pillar-assessments-as-of-1-january-2014.aspx (For Commission services only).</p> |
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| Article 2: General obligations | |
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| <p>Implementation of the Action</p> <p>2.1 The Organisation is responsible for the implementation of the Action described in Annex I of the Agreement, regardless whether the activities are carried out by the Organisation itself, a Sub-delegatee, an Affiliated Entity, a Contractor or a Grant Beneficiary. Annex I shall specify the Indicators to measure achievements. Both Parties will endeavour to strengthen their mutual contacts with a view to foster the</p> | <p>In light of Article 2.1 of the General Conditions, the Organisation is held responsible for the performance of its own obligations under the Agreement, as well as for those of Sub-delegatees, Affiliated Entities, Contractors or Grant Beneficiaries.</p> |

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| | exchange of information throughout the implementation of the Action. To this end, the Organisation and the Contracting Authority shall participate in coordination meetings and other jointly organised common activities, and the Organisation shall invite the European Commission to join any donor committee which may be set up in relation to the Action. | |
| 2.2 | When implementing the Action, the Organisation shall not unilaterally modify the main purpose 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. | <p>Indicators may be changed pursuant to Article 11.4 of the General Conditions, but this amendment requires an agreement between both Parties. For PA Grants, modifications to the Agreement may not have the purpose or the effect of introducing changes that would call into question the decision on the award. Where the PA Grant Agreement has been signed following a call for proposals, the changes shall ensure the equal treatment of applicants (see Article 11.5 of the General Conditions).</p> <p>Any change affecting the objectives, strategy and priority areas described in Annex I should give rise to a formal amendment of the agreement.</p> |
| Responsibility | | |
| 2.3 | The Organisation shall be responsible for the performance of the obligations under this Agreement with a due professional degree of care and diligence, which means that it has followed its Regulations and Rules with the same level of duty and care which it applies in managing its own funds. | The positively pillar-assessed Organisation is responsible for managing the funds with the same care as it would manage its own funds through the use of its own Regulations and Rules. |
| 2.4 | Under Delegation Agreements, the Organisation shall have full financial responsibility towards the Contracting Authority for all funds including those unduly paid to or incorrectly used by Sub-delegatees, Contractors or Grant Beneficiaries. The Organisation shall take measures to prevent, detect and correct irregularities and fraud when implementing the Action. To this end, the Organisation shall carry out, in accordance with the principle of proportionality and its positively assessed Regulations and Rules, ex-ante and/or ex-post controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the Action financed by the EU is effectively carried out and implemented correctly. Where funds have been unduly paid to or incorrectly used by Sub-delegatees, Contractors or Grant Beneficiaries the Organisation shall take all applicable measures in accordance with its own Regulations and Rules to recover those funds including by bringing legal proceedings where necessary and relevant. | <p>The term “full financial responsibility” towards the Contracting Authority means recovering all contributed funds unduly paid to, or incorrectly used by Sub-delegatees, Contractors or Grant Beneficiaries, and/or repaying funds which the Organisation used in a manner inconsistent with the terms of the Agreement. This is without prejudice to Article 2.5 of the General Conditions.</p> <p>The Financial Regulation obliges the entrusted entities under Delegation agreements to recover funds unduly paid or incorrectly used by Sub-delegatees, Contractors or Grant Beneficiaries, and/or repaying funds which the Organisation used in a manner inconsistent with the terms of the Agreement. The term full financial responsibility should be read in that context.</p> |
| 2.5 | <p>Under Delegation Agreements, the European Commission may waive the recovery of all or part of the amounts that could not be recovered from Sub-delegatees, Contractors or Grant Beneficiaries, provided that the following cumulative conditions are fulfilled:</p> <p>a) the Organisation has correctly followed its own Regulations and Rules and the non-recovery is not the result of error or negligence on the part of the Organisation;</p> <p>b) the Organisation exercised in the recovery of the EU funds the same level of</p> | <p>This provision intends to reassure the Commission's partners that in case they fulfil obligations listed from a) to c) the Commission may decide to not hold them financially responsible for the amounts lost.</p> <p>Note that while formulated in the context of the financial responsibility under delegation agreements, the possibility to waive debts is available to all Authorising officers irrespective of the management mode. It is framed by Article 80 FR and 91 RAP.</p> |

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| <p>diligence which it applies in recovering its own funds and has demonstrated that it has exhausted all applicable measures at its disposal in accordance with its own Regulations and Rules to recover the funds including bringing legal proceedings where necessary and relevant against Sub-delegatees, Contractors and Grant Beneficiaries; and</p> <p>c) the Organisation endeavours to assign the claim against the debtor to the European Commission following the request of the European Commission.</p> | |
| <p>Other obligations</p> <p>2.6 The Organisation undertakes to ensure that the obligations stated in this Agreement under Articles 2.8, 5-Conflict of interest, 7.1- Data protection, 8-Communication and Visibility, 16-Accounts and archiving and Article 17-Access and financial checks apply, where applicable, to all Contractors and Grant Beneficiaries.</p> | <p>"Where applicable" refers to situations in which any of the listed provisions may be of relevance for the subject matter of the contract.</p> <p>E.g. in the case of contracts for the supply of equipment, no data protection rule is likely to apply.</p> |
| <p>2.7 The Organisation shall notify the Contracting Authority and 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) substantial changes affecting the pillar 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 circumstances likely to adversely affect the implementation and management of the Action or delay or jeopardise the performance of the activities. The Parties shall use their best efforts to resolve amicably any issues resulting from such changes. The Contracting Authority reserves the right to adopt or require additional measures in response to said changes. In the event an agreement on such measures or other solutions cannot be reached between the Parties, either Party may terminate the Agreement according to Article 13.3.</p> | <p>The notion of substantial change is to be assessed by the Organisation, with changes deemed to be substantial if they would have affected the pillar assessment. When in doubt, the Organisation should also notify the Commission of the changes.</p> |
| <p>2.8 The Organisation shall promote the respect of human rights and respect applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards.</p> | |
| <p>2.9 Where the European Commission is not the Contracting Authority, it shall not be a party to this Agreement, which shall only confer on it rights and obligations where explicitly stated. This is without prejudice to the European Commission's role in promoting a consistent interpretation of the terms of this Agreement.</p> | |
| <p align="center">Article 3: Obligations regarding information and reporting</p> | |
| <p>General issues</p> <p>3.1 The Organisation shall provide the Contracting Authority 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 year of the Implementation Period as defined in Article 2.3 of the Special Conditions (or the whole Implementation Period where it is less than one year). The Organisation shall submit to the Contracting Authority progress report(s) and a final report in accordance with the</p> | <p>The "Implementation Period" starts at a date as defined in Article 2.3 of the Special Conditions and it takes the number of months as specified in Article 2.4 of the Special Conditions. The Implementation Period ends at the conclusion of that number of months.</p> <p>The "Implementation Period" shall be distinguished from the "Execution Period" which refers to</p> |

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| <p>provisions below. These reports shall consist of a narrative part and a financial part.</p> | <p>the "End date" as described under Article 13.5 of the General Conditions. The Execution period includes the "Implementation Period" as well as the period until the "end date".</p> <p>PAGODA does not impose a template for reporting and hence the Organisation is free to use their own format, provided that the reporting minimum requirements foreseen in this Article are met.</p> <p>Therefore, an Organisation can use its own templates/format (e.g. resources-based budget or activity based budget). However, in the context of calls for proposals, Organisations have to use the templates published with the relevant call.</p> <p>Article 3 of the General Conditions sets out minimum requirements that the financial and narrative reports must comply with. These reports should be laid out in such a way as to allow monitoring of objective(s), the means envisaged and employed. The level of detail in the reports shall match that of Annexes 1 & 3.</p> <p>As a general principle, there should be one progress report for every twelve-months of the implementation. This frequency of reporting is in principle considered sufficient by the Contracting Authority. To request more than one report per year represents an exception to this general rule. Where specific circumstances require an increase in the frequency of reports, this will be agreed by the parties beforehand, and explicitly stipulated in the special conditions of the contribution-specific agreement.</p> |
| <p>3.2 Every report, whether progress or final, shall provide a complete account of all relevant aspects of the implementation of the Action for the period covered. The report shall describe the implementation of the Action according to the activities envisaged in Annex I, difficulties encountered and measures taken to overcome problems, eventual changes introduced, as well as the degree of achievement of its Results (Impact, Outcomes or Outputs) as measured by corresponding Indicators. The report shall be laid out in such a way as to allow monitoring of the objective(s), the means envisaged and employed. The final report, narrative and financial, will cover the entire period of implementation. The level of detail in any report shall match that of Annexes I and III.</p> | <p>The narrative report will maintain the level of detail of Description of Action (Annex I) and it shall include the sections listed in Article 3.6.</p> <p>The financial report will be presented in the same level of detail as the budget lines established in the contractual budget (Annex III).</p> |
| <p>3.3 In case of Multi-Donor Actions under Delegation Agreements, and where the project or programme of the Organisation lasts longer than the Implementation Period of this Agreement, the Contracting Authority may request – in addition to the final reports to be submitted under Article 3.8 - 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 13.5.</p> | |
| <p>3.4 Any alternative or additional reporting requirement shall be set out in the Special Conditions.</p> | <p>The Parties may agree on additional reporting requirements which deviate from the minimum criteria laid out in Article 3, provided that the minimum requirements foreseen in any relevant Framework Agreement, if applicable, are respected.</p> <p>In case of additional reporting requirements, in line with the minimum criteria stated in Article 3, are agreed, a derogation request shall not be needed. For PA Grants, such additional requirements should be introduced in a new sub-article under Article 4 of the Special Conditions. For Delegation Agreement, it should be introduced under Article 7.1 of the Special Conditions.</p> |

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| | See also Article 3.8 of the General Conditions. The standard/default frequency of reporting is commonly understood to be annual (or once for the whole Implementation Period where it is less than one year). Alternative or additional reporting requirements which deviate from the criteria laid out in Article 3 should be mutually agreed, justified and appropriate in the specific circumstances. |
| 3.5 The Contracting Authority may request additional information at any time, providing the reasons for that request. Subject to the Organisation's Regulations and Rules, such information shall be supplied within 30 days of receipt of the request. The Organisation may submit a reasoned request to extend the 30 days deadline. | <p>The additional information requested by the Commission under this Article shall be reasonable and relevant.</p> <p>This Article shall not be used to impose additional reporting requirements or to carry out a desk review, verification or audit, which are regulated under Article 17 of the General Conditions and, if applicable, under the Verification Annex to the Framework Agreement signed with the Organisation.</p> <p>No request for extension of the deadline shall be unreasonably withheld.</p> |
| <p>Content of the reports</p> <p>3.6 The progress report(s) shall directly relate to this Agreement and shall at least include:</p> <ul style="list-style-type: none"> a) summary and context of the Action; b) actual Results: an updated table based on a logical framework matrix including reporting of Results achieved by the Action (Impact, Outcomes or Outputs) as measured by their corresponding indicators; agreed baselines and targets, and relevant data sources; c) activities carried out during the reporting period (i.e. directly related to the Action and described in this Agreement); d) 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; e) information on the implementation costs incurred as well as the legal commitments entered into by the Organisation during the reporting period. f) a summary of controls carried out, if any under PA Grant Agreements, and available final audit reports in line with the Organisation's policy on disclosure of such controls and audit reports. Where errors and weaknesses in systems were identified, analysis of their nature and extent as well as information on corrective measures taken or planned shall also be provided; g) under Delegation Agreements, control measures carried out on Sub-delegates, if any. In case weaknesses are detected, information on their nature and extent as well as corrective measures adopted; h) where applicable, a request for payment; i) work plan for the following period. | <p>3.6.b.</p> <p>For the progress made in the achievement of the results (Article 3.6.b)), information on outputs and on outcomes should be provided.</p> <p>The Logical Framework of the Action presented for the description of an Action will be updated for reporting purpose by adding one column providing the actual value of the results indicators for each relevant level of the chain of the results. Any necessary update/modification of the targets, baselines, sources of verification related to these indicators should be made in the same Logical Framework of the Action with due consideration to the rules for amendments (see Article 11.4 below)</p> <p>For a standard template of a Logical Framework of the Action for Delegated Agreement and for PA Grants, see in this manual Special Conditions DA Article 6 and, where applicable, also the Concept Note</p> <p>3.6.e</p> <p><u>For the Delegation Agreement</u>, financial reports shall reflect costs actually incurred and amounts subject to legal commitments, presented in two separate columns. The 70% threshold referred to in Article 19.1 of the General Conditions in order to release further pre-financing, shall apply only to the costs subject to legal commitments. The term "costs actually incurred" is defined in Article 18.1 of the General Conditions. The amounts referring to the costs actually incurred will be taken into consideration for clearing purposes.</p> <p><u>For the PA Grant Agreement</u>, financial reports shall reflect costs actually incurred and costs subject to legal commitments, even if not yet incurred, presented in two separate columns. The 70% rule referred to in Article 26.1(b) iii) and iv) of the General Conditions (applicable to EU External Actions) shall be based only on the costs actually incurred. Costs subject to legal commitments entered into during the reporting period are included in financial reports for information purposes only.</p> |

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| <p>3.7 The final report shall include:</p> <ul style="list-style-type: none"> a) all the information requested in Article 3.6 a) to h). b) a summary of the Action's receipts, payments received and of the acceptable expenditure or eligible costs incurred; c) where applicable, an overview of any funds unduly paid or incorrectly used which the Organisation could or could not recover itself; d) under a Delegation Agreement, the exact link to the webpage where, according to Article 22.1, information on Grant Beneficiaries and Contractors is available; e) for EU External Actions, if relevant, details of transfers of equipment, vehicles and remaining major supplies mentioned in Article 9; f) f) in the case of Multi-Donor Actions, a mention that the Organisation assures that costs that are not eligible for the Contracting Authority are covered by other donors contributions | <p>3.7 (f)</p> <p>This refers to the concept of 'notional approach'. The Contracting Authority needs to ensure that costs that are not eligible for EU funding are covered through contributions of other donors. The Organisation needs to inform the Contracting Authority in the Final Report that this is the case for the requirement to be met. In this way the Contracting Authority is reassured since it does not have necessarily direct contacts with such donors.</p> <p>If ineligible costs are detected by the Contracting Authority when processing the final report, the Contracting Authority shall ask the Organisation confirmation that these costs will be covered by other donors before proceeding to payment.</p> |
| <p>3.8 The Organisation shall submit a report for every reporting period as specified in the Special Conditions as from the commencement of the Implementation Period, unless otherwise specified in the Special Conditions¹. 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 days after the period covered by such report. For EU External Actions, the final report shall be submitted at the latest six months after the end of the Implementation Period. For non-EU External Actions, the final report shall be submitted at the latest three months after the end of the Implementation Period.</p> | <p>It is understood that, for EU External Actions, by default, the reporting period is every 12 months as from the commencement of the Implementation Period (as stated in the footnote of Article 3.1 of the Special Conditions). Non-EU External Actions are to be understood as EU Internal Policies.</p> <p>With respect to Articles 3.8 and 19 of the General Conditions, Special Conditions may provide for specific reporting periods if requested or agreed by the Organisation.</p> <p>For an interpretation of the concept of "Implementation Period", see comments on Article 3.1 of the General Conditions and Articles 2.3 and 2.4 of the Special Conditions.</p> |
| <p>Management declaration and audit or control opinion under Delegation Agreements</p> <p>Under Delegation Agreements, the following Articles 3.9 to 3.13 apply:</p> <p>3.9 If the Action is an EU External Action, every annual or final report shall be accompanied by a management declaration in accordance with the template in Annex VII. Where the duration of the Implementation Period is shorter than 18 months the management declaration shall only be provided with the final report. If the Action is not an EU External Action and its Implementation Period is longer than 18 months, the management declaration shall be provided by 15 February of the year following the first year of implementation, and thereafter every year.</p> | <p>Management Declaration</p> <p>Unless there is an arrangement to provide annually a management declaration (see explanations on Article 3.13), each progress or final report has to be accompanied by a Management Declaration following the template provided in Annex VII.</p> <p>In case the Organisation declares that the Management Declaration is provided annually, the staff in charge of payments shall check in DEVCO intranet whether there is such an arrangement in place before considering the Report complete:</p> <p>https://myintracomm.ec.europa.eu/dg/devco/finance-contracts-legal/financing-contracting-guides/companion/Pages/management-declaration-control-audit-opinion.aspx.</p> |
| <p>3.10 In case the Organisation is not an international Organisation, it shall provide the</p> | <p>Audit opinion for non-international Organisations</p> |

¹ For EU External Actions, by default, the reporting period is every 12 months as from the commencement of the Implementation Period.

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| <p>Contracting Authority, within one month from submitting each management declaration (i.e. 15 March for non-EU External Actions) with an opinion by an independent audit body in accordance with Article 3.12. In the field of External Actions the Organisation may have an arrangement</p> | <p>In the case of EU External Actions, it is possible for non-International Organisations to have an arrangement to provide annually both: the Management Declaration and, one month later, the Audit Opinion. It is not possible to have an arrangement to provide annually only one of them (see further details in the explanations of Article 3.13).</p> <p>The Audit Opinion can be issued by an operationally independent audit body of the Organisation.</p> <p>Payments:</p> <ul style="list-style-type: none"> * In case the Organisation declares that the Management Declaration and Audit Opinion are provided annually, the staff in charge of payments shall check in DEVCO intranet whether there is such an arrangement in place and it is valid before making the payments: https://myintracomm.ec.europa.eu/dg/devco/finance-contracts-legal/financing-contracting-guides/companion/Pages/management-declaration-control-audit-opinion.aspx Such check is not required for the first pre-financing instalment. * In cases where there is not an arrangement to provide annually the Management Declaration and the Audit Opinion payments the final payment can only be done once the report is complete, i.e. including the Management Declaration and the Audit Opinion. The previous payments can be executed based on the fact that previous Audit Opinions were received. <p>Example for a 3 years contract:</p> <ul style="list-style-type: none"> - Signature and first pre-financing instalment. No additional requirements. - First report is received with the first Management Declaration. Second pre-financing instalment can be released without Audit Opinion. - Second report is received with the second Management Declaration. Third pre-financing instalment is released if the first Audit Opinion, referring to the first Management Declaration has been received. - Final report is received, the report is only completed once the Third Management Declaration and the Second and Third Audit Opinions have been received. Nonetheless, in order not to delay the payment, services can start the analysis of the narrative and financial parts before having received the third Audit Opinion. |
| <p>3.11 In case the Organisation is an international Organisation, which does not have a framework agreement with the European Commission, the Organisation shall provide the Contracting Authority, within six months from submitting each report, with an opinion by an independent audit body in accordance with Article 3.12 or an equivalent opinion by a control body of the Organisation.</p> | <p>For the purpose of this Article, the reference to the "framework agreement" shall be understood as a special arrangement between the European Commission and the Organisation. This arrangement can either be included in a framework agreement or agreed by exchange of letters.</p> <p>Audit opinion for international organisations</p> <p>If the Organisation is an international organisation and has not an arrangement to provide annually the Audit or Control Opinion, it shall provide an Audit Opinion following each Management</p> |

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| | <p>Declaration (by 15 of March for non-EU External Actions). Such Audit Opinion is the one referred to in Article 3.12. Should the Organisation wish to rely on the annual audited financial statements of the Organisation in its entirety, it is required to have an arrangement for that purpose, as described in Article 3.13.</p> <p>Final payments can be done once the report is complete, including the Management Declaration and the Audit Opinion. The previous payments can be executed based on the fact that previous Audit Opinions were received.</p> <p>Example for a 3-year contract:</p> <ul style="list-style-type: none"> - Signature and first pre-financing instalment. No additional requirements. - First report is received with the first Management Declaration. Second pre-financing instalment can be released without Audit Opinion. - Second report is received with the second Management Declaration. Third pre-financing instalment is released if the first Audit Opinion, referring to the first Management Declaration has been received. - Final report is received, the report is only completed once the Third Management Declaration and the Second and Third Audit Opinions have been received. Nonetheless, in order not to delay the payment, services can start the analysis of the narrative and financial parts before having received the third Audit Opinion. |
| <p>3.12 The opinion referred to in Articles 3.10 and 3.11 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 managed in accordance with the provisions of this Agreement. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration mentioned above.</p> | |
| <p>3.13 In case the Organisation has an arrangement to that effect with the European Commission, the Organisation may provide annually the management declaration and/or audit or control opinion, which are made available to the European Commission headquarters separately from the reports provided under this Agreement.</p> <p>In the case of international Organisations, the audit or control opinion refers to the annual audited financial statements of the Organisation in its entirety.</p> | <p>Arrangements</p> <p>It is possible for any Organisation (International or not) to have an arrangement:</p> <ul style="list-style-type: none"> * For non-International Organisations, the arrangement shall cover both, the Management Declaration and the Audit Opinion. * For International organisations, the arrangement may entail either the annual reception of the Audit/Control Opinion (being, in this case, the Management Declaration sent Action by Action) or the annual reception of both the Management Declaration and the Audit/Control Opinion. <p>The existing arrangement are listed in DEVCO intranet page: https://myintracomm.ec.europa.eu/dg/devco/finance-contracts-legal/financing-contracting-</p> |

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| | <p>guides/companion/Pages/management-declaration-control-audit-opinion.aspx</p> <p>Partner Countries acting as Contracting Authorities can be informed whether the agreement is valid or not via the corresponding EU Delegation.</p> <p>Establishment of arrangements:</p> <p>Arrangement are established by exchange of letters with the European Commission, Unit DEVCO R3 (EuropeAid-R3@ec.europa.eu), setting out whether the Organisation will provide annually either the audit or control opinion, or provide annually the management declaration and the audit or control opinion.</p> <p>The Organisation shall inform in every report submitted (either progress or final) whether the management declaration and audit or control opinion are attached in the report, or sent annually to Headquarters. In the second case, services can check in the dedicated web page on DEVCO Intranet whether the relevant agreement is in place and the validate date has not elapsed.</p> <p>In case the Management Declaration and Audit or Control Opinion are not attached to a report and there is not valid Arrangement for that purpose, the corresponding reports have to be considered incomplete and the deadline for payments suspended in accordance with Articles 12.1 and 12.2 of the General Conditions.</p> <p>Having a Framework Administrative Agreement does not necessarily imply an arrangement for the Management Declaration and Audit Opinion. If any Framework Agreement includes an arrangement, it will be reflected in DEVCO intranet page, so there is only one place where all arrangements can be consulted.</p> <p><u>Relevant for non-international Organisations:</u></p> <p>Article 3.11 refers to a Framework Agreement, which is to be understood as referring to the arrangement on Management Declaration and Audit Opinion.</p> <p><u>Relevant for international Organisations:</u></p> <p>In the case of International Organisations, the Audit Opinion can be either an audited financial statements of the project(s) financed by the EU Contribution(s) or of the Organisation in its entirety. It can also be an opinion from a Control Body of the Organisation..</p> |
| Currency for reporting | |

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| 3.14 | Unless otherwise agreed in the Special Conditions, the reports shall be submitted in the accounting currency of the Organisation for the Action. | <p>Should the Parties agree on a reporting currency which differs from the accounting currency for the Action, preference shall be given to the Euro. Such arrangement shall be introduced into the Special Conditions and shall be agreed by both parties.</p> <p>PAGODA intentionally left open the possibility to report in reporting currencies different from the accounting currency of the Organisation to cater for those cases where the accounting practices of the Organisations (which have been assessed by the ex-ante pillar assessment), would conflict with the rules of conversion set in PAGODA's GC.</p> <p>For example, in those cases where the accounting practices of the Organisation require recognition of the revenue at the time of signature of the agreement for the total amount of the EC Contribution, reporting in EUR is acceptable.</p> |
| 3.15 | The Organisation shall convert legal commitments, the Action's receipts and costs incurred in currencies other than the accounting currency for the Action according to its usual accounting practices. | |
| Failure to comply with reporting obligations | | |
| 3.16 | 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 3.8, the Organisation shall inform the Contracting Authority in writing of the reasons, and shall provide a summary of the state of progress of the Action and, where applicable, 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 3.8, the Contracting Authority may terminate the Agreement in accordance with Article 13, refuse to pay any outstanding amount and recover any amount unduly paid. | It is understood that the two (2)-month period refers to the failure to inform the Contracting Authority on the reasons for the delay and the failure to provide the summary of the state of progress of the Action. |
| Article 4: Liability towards third Parties | | |
| 4.1 | The European 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 European Commission shall not therefore accept any claim for compensation or increase in payment in connection with such damage or injury. | |
| 4.2 | The European Commission shall not under any circumstances or for any reason whatsoever be held liable 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. | |
| 4.3 | The Organisation shall discharge the European Commission of all liability associated with any claim or Action brought as a result of an infringement of the Organisation's Regulations and Rules committed by the Organisation or Organisation's employees or individuals for whom those employees are responsible, or as a result of a violation of a third party's rights in the context of the implementation of the Action. | |

| Article 5: Conflict of interests | |
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| 5.1 | <p>The Organisation shall refrain, in accordance with its Regulations and Rules, from any Action which may give rise to a conflict of interests.</p> <p>The obligation established under this provision holds both a negative and a positive dimension. Not only should the Organisation refrain from acting in such a manner as to potentially interfere with an impartial and objective implementation of the Agreement, but also it should comply with the obligation to identify and take appropriate measures to avoid or resolve conflict of interests.</p> <p>In the context of Actions where the decision to finance a particular activity is based on the opinion of a Steering Committee, the decision by the Organisation to finance any project selected by a Steering Committee (whenever applicable) does not constitute <i>per se</i> a “conflict of interests” (for example, this happens often in the Blending Facilities).</p> |
| 5.2 | <p>There is a conflict of interests where the impartial and objective exercise of the functions of any person implementing the Agreement is compromised.</p> |
| Article 6: Confidentiality | |
| 6.1 | <p>The Contracting Authority and the Organisation shall both preserve the confidentiality of any document, information or other material directly related to the implementation of the Action that is communicated as confidential. The confidential nature of a document shall not prevent it from being communicated to a third party on a confidential basis when the rules binding upon the Parties, or the European Commission when it is not the Contracting Authority, so require.</p> <p>In no case can disclosure put into jeopardy the Parties’ privileges and immunities or the safety and security of the Parties’ staff or the Final Beneficiaries of the Action.</p> <p>In light of this Article, any document, information or other material directly related to the implementation of the Action which is classified as “restricted”, “confidential” or “secret” by the Organisation shall not be communicated to third Parties in any form or manner. The fact that documents have been classified as “restricted”, “confidential” or “secret” by the Organisation, cannot be a reason for such documents not to be communicated to the Contracting Authority, on a 'need-to-know basis' and only for the part pertaining to the programmes funded by the EU.</p> <p>Where the European Commission is not the Contracting Authority, it shall still have access to all documents communicated to the Contracting Authority and shall maintain the same level of confidentiality.</p> |
| 6.2 | <p>The Parties shall obtain each other’s prior written consent before publicly disclosing such confidential information unless:</p> <ul style="list-style-type: none"> a) the communicating 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 by the Party bound by that obligation; c) the disclosure of confidential information is required by law or by Regulations and Rules established in accordance with the basic constitutive document of any of the Parties. |
| 6.3 | <p>The Parties shall remain bound by confidentiality for five years after the End Date of the Agreement (see Article 13.5) or longer as specified by the communicating Party at the time of communication.</p> |
| 6.4 | <p>Where the European Commission is not the Contracting Authority it shall still have access to all documents communicated to the Contracting Authority and shall maintain the same level of confidentiality.</p> |

| Article 7: Data Protection | | |
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| 7.1 | The Organisation shall ensure appropriate protection of personal data. Personal data means any information relating to an identified or identifiable natural person. Any operation involving the processing of personal data, such as collection, recording, Organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure, erasure or destruction, shall be based on the Regulations and Rules of the Organisation and shall only be done as far as necessary for the performance of the mandate of the Organisation | |
| 7.2 | <p>In particular, the Organisation shall take, in accordance with its Regulations and Rules, 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:</p> <ul style="list-style-type: none"> 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 8: Communication and visibility | | |
| 8.1 | The Organisation shall implement the Communication and Visibility Plan detailed in Annex VI. | In the case of an Action that is co-financed by other Donors, visibility for the Commission will be provided within the Organisation's overall visibility plan for the Action. In such cases, acknowledgement of the use of EU funds, including display of the EU logo, will be effected in the same manner as for the other Donors to the Action and in accordance with the Communication and visibility manual or as per Guidelines agreed between the Organisation and the Commission. |
| 8.2 | Unless the European Commission requests or agrees otherwise, the Organisation shall take all appropriate 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. 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." In the case of EU External | <p>As part of its regular reporting, the Organisation shall inform the Commission of its efforts to advertise that the Actions were financed with EU funds.</p> <p>In case the Plan is not implemented as prescribed, the Contracting Authority will contact the Organisation in order to discuss and implement remedial measures.</p> |

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| | Actions such measures shall be carried out in accordance with the Communication and Visibility Manual ² published by the European Commission or with any other guidelines agreed between the European Commission and the Organisation. | |
| 8.3 | 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). Where such display could jeopardise the Organisation's privileges and immunities or the safety of the Organisation's staff or of the Final Beneficiaries, the Organisation shall propose appropriate alternative arrangements. 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. | |
| 8.4 | In the case of EU External Actions, if in application of Article 9.6, the equipment, vehicles or remaining major supplies purchased using EU funds have not been transferred to the local authorities, local Sub-delegatees, local Co-Beneficiaries, 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. Where the Organisation retains ownership in accordance with Article 9.7, the visibility requirements shall continue to apply as long as the relevant equipment, vehicles or remaining major supplies are used by the Organisation. | |
| 8.5 | 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. | |
| 8.6 | Unless otherwise provided in the Special Conditions if disclosure risks threatening the Organisation's safety or harming its interests, the European 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. | <p>The European Commission always publishes the name and addresses of the beneficiaries of all funds.</p> <p>In the event that such disclosure harms the Organisation's safety or interests, the Commission and the Organisation may agree on specific arrangements which would have to be included in the Special Conditions.</p> |
| 8.7 | The Organisation shall ensure that reports, publications, press releases and updates relevant to the Action are communicated to the addresses stated in the Special Conditions, as and when they are issued. | With respect to Article 8.7 of the General Conditions, the obligation to communicate Reports and other information to the Commission shall be deemed fulfilled once the abovementioned documents are posted, for example, through the Donor Portal or website of the Organisation or, if applicable, through a different channel as established to the benefit of the contributors to the Action. This is the case, for example, of the IMF. If the Organisation does not have a Donor Portal available, all the documents relevant to the Action are sent to the Contracting Authority and, more specifically, to the address specified in the Special Conditions. |

² Communication and Visibility Manual for EU External Actions : https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-Actions_en

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| <p>8.8 The Parties will consult immediately and strive to remedy any detected shortcoming in implementing the visibility requirements set out in this Article. This is without prejudice to measures the Contracting Authority may take in case of substantial breach of an obligation.</p> | |
| <p align="center">Article 9: Ownership, right to use results and transfer of equipment</p> | |
| <p>Ownership</p> <p>9.1 To the extent legally possible, ownership, title and industrial and intellectual property rights of the results of the Action including 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 with the Contracting Authority.</p> | <p>Intellectual property vests in the Organisation and will not be subject to joint or co-ownership with the Contracting Authority.</p> |
| <p>Right to use</p> <p>9.2 Notwithstanding the provisions of the first paragraph and subject to Article 6, the Organisation shall Grant, and shall act to ensure that the third party concerned (Sub-delegatee, Grant Beneficiary, recipient of financial support or Contractor) Grants the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use free of charge those results referred to in Article 9.1 which are subject to industrial or intellectual property rights.</p> | <p>Where the application of Articles 9.2 or 9.3 poses a problem, the Parties should consult one another with a view to finding a mutually acceptable solution.</p> <p>By "right to use", it is understood that the European Commission is not prevented from using materials or deliverables produced in the course of the Action by any contractual or legal copyright constraint.</p> |
| <p>9.3 Where the results mentioned in Article 9.2 include pre-existing rights and the Organisation cannot warrant the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use such results, the Organisation shall accordingly inform in writing the Contracting Authority (and the European Commission where it is not the Contracting Authority).</p> | |
| <p>Transfer (EU External Actions only)</p> <p>9.4 In the field of EU External Actions, the equipment, vehicles and remaining major supplies purchased with the EU contribution in the framework of the Action shall be transferred to local authorities, local Sub-delegatees, local Co-Beneficiaries, local Grant Beneficiaries or to the Final Beneficiaries, at the latest when submitting the final report.</p> | <p>Articles 9.4 to 9.7 of the General Conditions do not apply if the Organisation only requests reimbursement of depreciation costs instead of the full purchase costs (see Article 25.1 b iii).</p> <p>The transfer of assets or property should be in accordance with the Organisation's Regulations and Rules.</p> <p>In the field of External Actions, equipment, vehicle and major supplies purchased during an Action financed by the European Union are required to be transferred to local authorities, local Sub-Delegates, local Co-Beneficiaries or to the final beneficiaries. However, in cases of Multi-Donor Actions certain exemptions apply (see what is set out in the specific agreement).</p> <p>In multi-donor Actions which continue after the end of the implementation period of the contribution-specific agreement, this transfer may take place at the end of the overall action. If there are no local authorities or partners to whom the equipment, vehicles and supplies could be transferred, the Organisation may transfer the assets to another action funded by the European</p> |

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| | <p>Union or Contracting Authority or, exceptionally, retain ownership. In such a case, the Organisation should 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 reports. In no event may the end use jeopardize the sustainability of the action or result in a profit for the Organisation.</p> <p>Please note that the Organisation is not required to submit copies nor originals of certificates of donation with the final reports. The Organisation, however, shall keep the documentary proof of the transfer for verification along with the documents mentioned in Article 16.</p> <p>Other aspects of the financial closure of the agreement would not be affected (for example, a final payment be due to the Organisation may not be withheld due to the project continuing beyond the timeframe of the agreement).</p> |
| 9.5 | <p>The documentary proof of those transfers shall not be presented with the final reports, but shall be kept for verification for the duration and along with the documents mentioned in Article 16.3.</p> |
| 9.6 | <p>By way of derogation from Article 9.4, the equipment, vehicles and remaining major supplies purchased with the EU contribution in the framework of Actions which continue after the end of the Implementation Period may be transferred at the end of the Action. The Organisation shall use the equipment, vehicles and remaining major supplies to the benefit of the Final Beneficiaries. The Organisation shall inform the Contracting Authority on the end use of the equipment, vehicles and remaining major supplies in the final report.</p> |
| 9.7 | <p>The end of the Action corresponds to the end of the Action carried out by the Organisation, which often lasts longer than the Implementation Period.</p> <p>The Implementation Period corresponds to the period during which EU funds are deemed to be provided to the specific Action. This period is defined in Article 2.3 and 2.4 Special Conditions delegation Agreement and 2.2 and 2.3 Special Conditions Grant Agreement.</p> |
| 9.7 | <p>In the event that there are no local authorities, local Sub-delegatees, local Co-Beneficiaries, local Grant Beneficiaries or Final Beneficiaries to whom the equipment, vehicles and remaining 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 remaining major 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.</p> |
| <p>Article 10: Evaluation and monitoring of the Action</p> | |
| 10.1 | <p>The Organisation shall invite representatives of the Contracting Authority and the European Commission to participate at their own costs 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 European Commission.</p> |
| | <p>Evaluation and monitoring mission are to be distinguished from the financial verification. The former does not affect the latter.</p> <p>Considering the shared principles of aid effectiveness as promoted by the Paris Declaration, the European Commission and the Organisation are encouraged to conduct joint evaluation missions. The European Commission may perform evaluation missions as a donor. These evaluations are</p> |

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| | <p>funded by the EU separately from the budget of the agreement with the Organisation. Such missions should be planned and completed in a collaborative manner. For that purpose, matters as timing of the missions, questions to be addressed with management of the Organisation will be previously discussed by both Parties. In this respect, Commission services shall ensure that advance notice of intended evaluations and monitoring exercises is communicated to the Organisation as soon as this is available.</p> <p>Where evaluations by the Organisation take place, the European Commission should be invited to take part in the mission and should receive the evaluation report. These missions should be completed in a collaborative manner, it being understood that they will be conducted under the Organisation's responsibility.</p> |
| 10.2 | <p>Article 10.1 is without prejudice to any evaluation or monitoring mission which the European Commission as a donor, or the Contracting Authority at their own costs, may wish to perform. Evaluation and monitoring missions by representatives of the European Commission or Contracting Authority shall be planned ahead and planned and completed in a collaborative manner between the staff of the Organisation and the European Commission's (Contracting Authority's) representatives, keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement. The European Commission (or the Contracting Authority) and the Organisation shall agree on procedural matters in advance. The European Commission (or the Contracting Authority) shall make the draft report of the evaluation or monitoring mission available to the Organisation for comments prior to final issuance. The European Commission (or the Contracting Authority) shall send the final report to the Organisation once issued.</p> <p>For the evaluation or monitoring missions performed by the Commission, the Commission will inform the Organisation of the evaluation and monitoring plans at the beginning of the year and send the terms of reference for information, without prejudice to the provisions agreed in the respective Framework Agreement.</p> |
| Article 11: Amendment to the Agreement | |
| 11.1 | <p>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 as set forth under Article 2 of the Special Conditions.</p> <p>The 'Execution Period' referred to in the present Article begins with the Agreement entering into force at the time when the second signature is written, as per Article 2.1 of the Special Conditions, and continues up to the 'End Date' as referred to in Article 13.5 of the General Conditions.</p> <p>The Organisation cannot extend the implementation period of the Action unilaterally. Such modification, as well as those which require adjustment of the key elements defined in the special conditions of the Agreement, needs to be set out in writing in an Addendum to the special conditions.</p> <p>Between the end of the implementation period and the end of the execution period it is still possible to amend the agreement.</p> |
| 11.2 | <p>The requesting Party shall submit in writing to the other Party any request for amendment to this Agreement, including its annexes.</p> |
| 11.3 | <p>The requesting Party shall request any amendment 30 days before the amendment is intended to enter into force and no later than 30 days before the end of the Execution Period, unless there are special circumstances duly substantiated by it</p> |

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| <p>and accepted by the other Party. The other Party shall notify its decision regarding the amendment proposed in due time and in any case no later than 30 days after the date when the amendment request was received.</p> | |
| <p>11.4 By derogation from Articles 11.1, 11.2 and 11.3, 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 25 % 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 Contracting Authority accordingly in writing, at the latest in the next report. The Indicators described in Annex I may be changed by the Organisation in agreement with the European Commission, without the need for a formal rider to the Agreement if the change does not affect the basic purpose of the Action.</p> | <p>Should any doubts arise as to whether the modification affects the basic purpose of the Action, the Organisation shall inform the Contracting Authority in a separate communication. In this case, the Contracting Authority shall proceed with the request as soon as possible.</p> <p>With respect to the present Article, where the information on changes to the Indicators are provided in the progress/final report (as relevant), it is deemed that the Organisation complied with the necessary requirements.</p> <p>As there is no standard template for the budget (except where the International Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the International Organisation when an agreement is being signed.</p> <p>For the purpose of interpreting the 25% flexibility rule mentioned above, a budget heading is an aggregate of individual budget lines.</p> <ul style="list-style-type: none"> * In input-based budgets (e.g. in PA Grant Agreements stemming from calls for proposals), a group of individual budget lines related to a particular type/nature of the input constitute together a budget heading. For instance, in the EC template Budget for the Action, the sections 1 "human resources", 2 "travel", 3 "equipment and supplies", are the individual budget lines. Within the main budget headings the Organisation may rearrange items up to 100 % without prejudice to Article 11.5 of the General Conditions. The detailed categories of expenses within an individual budget line-are the budget items: (e.g., 1.1 "salaries - gross amount local staff", 1.1.1 "Technical", 1.1.2 "Administrative/support staff", 1.2 "Salaries -gross amount, expat/int. staff...). * In results-based budgets, the aggregation of the resources required to implement an activity/result could be considered as the budget heading. <p>In case of doubt it is advisable to clarify what the budget headings are before the contract signature. Within the parameters specified above (and provided the basic purpose of the action is not affected), the Organisation can, for instance, adjust the unit rates or monthly fees for Staff which are indicative (estimate) at the time when the agreement is signed. The unit rates included in the budget headings are considered as an average and can therefore change over the time of implementation.</p> <p>Procedure to determine the 25% threshold:</p> <p>The 25% variation is calculated on both the original value of the heading where funds are taken from, and the original value of the heading where the funds are to be added. The modifications to the budget made by the Organisation are taken into account in a cumulative way. This means, if a budget heading was increased by, for instance, 20% of its initial value (as set out in the Budget of</p> |

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| | <p>the Action) through unilateral modification, that same heading can be further increased only by up to 5% of that same initial value set out in the budget of the Action (thus reaching in total up to 25% variation of its initial value). Therefore, it is not possible to proceed with several reallocations of 24% each! When the cumulative variations of a given budget heading exceed 25% of the budget heading's value in force, it is necessary to process a formal budget revision (Addendum) for which the EU's formal approval is required. Any amount in excess of the 25% ceiling which is not covered by an Addendum is not eligible for EU-financing.</p> <p>The 25% is calculated on the total value of the heading (i.e. the total amount for all years in case of multi-annual actions and/or multi-donor actions) set out in the actual Budget of the Action (original one or as put into force through an Addendum), not just on the EU's contribution.</p> | |
| 11.5 | <p>The method described in Article 11.4 shall not be used to amend the contingency reserve, nor the rate for indirect costs or the amounts or rates of simplified cost options defined in the PA Grant Agreement. Under a PA Grant Agreement, amendments shall not have the purpose or the effect of making such changes to the Agreement as would call into question the award decision or, where applicable, be contrary to the equal treatment of applicants.</p> | <p>The restrictions set forth in the second sentence of the Article shall apply both to unilateral amendments in accordance with Article 11.4 of the General Conditions and to written riders signed by both Parties.</p> <p>Where a PA Grant Agreement is the result of a direct award, written riders may also be used to increase the amount of the EU contribution.</p> |
| 11.6 | <p>Changes of address and of bank account shall be notified in writing to the Contracting Authority. Where applicable, changes of bank account must be specified in the request for payment, using the financial identification form attached as Annex IV.</p> | <p>This does not constitute a substantial change and does not require being formalised via a double signatures document.</p> <p>Where payment is to be made to a bank account which is already known to the European Commission (i.e. the Organisation had already signed a contract before), the Organisation may provide a copy of the relevant financial identification form. There is no need to provide a new original form. The same applies to the Legal Entity File (LEF). Where the Organisation signed a contract before, it was attributed a Legal Entity Number, so that number suffices.</p> |
| Article 12: Suspension | | |
| | | <p>Article 12 covers the provisions on suspension in three different circumstances: suspension of payments, suspension of the Agreement contract or suspension of the Action can be suspended. The implications are different in each case.</p> |
| 12.1 | <p>The Contracting Authority may suspend the time limit for payment following a single payment request by notifying the Organisation that either:</p> <ul style="list-style-type: none">a) the amount is not due; orb) the appropriate supporting documents have not been provided and therefore the Contracting Authority needs to request clarifications, modifications or additional information to the narrative or financial reports. Such clarifications or additional information may notably be requested by the Contracting Authority if it has doubt about compliance by the Organisation with its obligations in the implementation of the Action; orc) credible information has come to the notice of the Contracting Authority that puts in doubt the eligibility of the reported costs or the acceptability of the reported expenditure; or | <p>The suspension of the time limit of a single payment request might occur either for reasons strictly related to the payment request itself (situations under (a), first sentence of (b) and (c)), or for reasons related to the implementation of the Action which would put into question the content of the reports or the reliability of the expenditures reported (situations under the second sentence of (b) and (d). In either case, invoking suspension shall be duly substantiated by the Contracting Authority (or the Commission).</p> <p>Once the payment request is received, the deadline for payment starts running. In the situation listed in Article 12, the Contracting Authority is entitled to "stop the clock".</p> <p>The time limits are: i) with respect to the pre-financing instalment as set out in Article 4.2 of the Special Conditions, 30 days from the receipt of the Agreement signed by both Parties as established in Article 19.1a) and 26; ii) with respect to further pre-financing instalments and the final payment,</p> |

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| <p>d) under a Delegation Agreement, credible information has come to the notice of the Contracting Authority that indicates a significant deficiency in the functioning of the Internal Control System of the Organisation or of the Sub-delegatees or that the expenditure reported by the Organisation is linked to a serious irregularity and has not been corrected. In this case, the Contracting Authority may suspend the payment deadline if it is necessary to prevent significant damage to the EU's financial interests.</p> | <p>90 days from the receipt of a payment request accompanied by a progress or final report as laid out in Article 19.1d) and 26.</p> <p>Such suspension should be given thorough consideration as non-provision of a payment may put into jeopardy the implementation of the Action as well as have serious negative implication for the beneficiaries.</p> |
| <p>12.2 In the situations listed in Article 12.1 the Contracting Authority shall notify to the Organisation as soon as possible and in any case within 30 days from the date on which the payment request was received the reasons for the suspension, specifying, where applicable, the additional information required. Suspension shall take effect on the date when the Contracting Authority sends the notification stating the reasons for the suspension. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further checks are carried out. If the requested information or documents are not provided within the deadline fixed or are incomplete, payment may be made on the basis of the partial information available.</p> | <p>The suspension of the time limit is encoded in the system and takes effect on the date when the Contracting Authority sends the notification to the Organisation stating the reasons for suspension. This notification has to take place within 30 days from the reception of the payment request. After this deadline, the time limit can no longer be suspended.</p> <p>The suspension of the time limit for the payment may be lifted, if the Organisation, in its observations submitted pursuant to Article 12.2, confirms that remedial measures are being taken to the satisfaction of the Contracting Authority.</p> <p>When the observations are not submitted or are incomplete, it is still possible to proceed to a partial payment on the basis of the information available.</p> |
| <p>Suspension of payments and of the Agreement by the Contracting Authority</p> <p>12.3 The Contracting Authority may suspend payments, fully or partly, if:</p> <ul style="list-style-type: none"> a) the Contracting Authority, on the basis of credible information it received, has serious concerns and needs to verify whether substantial errors, irregularities, fraud or breach of substantial obligations have been committed by the Organisation or the Sub-delegatees in the procedure of their selection, on their pillar assessment or in the implementation of the Action; b) the Contracting Authority has proof that substantial errors, irregularities, fraud or breach of substantial obligations have been committed by the Organisation or the Sub-delegatees in the procedure of their selection, on their pillar assessment or in the implementation of the Action; c) under a Delegation Agreement, the Contracting Authority has proof that systemic errors have occurred 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; d) the Contracting Authority has proof 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; | <p>The suspension of payments laid down in Article 12.3 is intended as the suspension of all the payments under the Agreement and is not linked to a specific payment request. In practice, this provision will mainly apply to situations in which no payment request has been submitted. The reason for suspension shall be fully substantiated, -- i.e., in greater detail than in the case of suspension of a single payment request -- and be based either on credible information (situation under (a)), or on proof (situations under (b), (c) and (d)). As to credible information, this would mean that the source of information must be verified and reliable. When a proof is required, this may consist in an OLAF report, in a court judgment, an audit or verification report, in another documentary proof, etc.</p> <p>Depending on the specific case at stake, if the reason for suspension does not affect all the payments under the Agreement, the Contracting Authority may decide to suspend the payments only partially and continue paying the portions of the Action that are not affected.</p> <p>Should the Organisation decide to suspend the payments or the agreement with its Sub-delegatees, Contractors or Grant Beneficiaries, such decision shall be promptly notified to the Contracting Authority.</p> <p>Suspension should be properly substantiated, as it may jeopardize the implementation of the Action as well as have serious negative implications for the Organisation.</p> |
| <p>12.4 In the situations listed in Article 12.3, the Contracting Authority shall immediately</p> | <p>In the case of suspension of payments there is no payment request to be processed. The</p> |

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| <p>notify the Organisation about its intention to suspend payments and the reasons therefor. The Organisation shall provide its observations within 30 days. If no observations have been submitted or if the Contracting Authority, after examining the observations received, decides to pursue the suspension, the Contracting Authority will formally notify the suspension of payments specifying the reasons therefor and the conditions for resuming the payments. The suspension shall take effect on the date when the Contracting Authority sends the notification and it will be lifted once the conditions for resuming payments are met. During the suspension of payments, no payment request can be submitted by the Organisation. The suspension of payments does not suspend the eligibility of costs, however, the Organisation, in consultation with the Contracting Authority, may decide to suspend the implementation of all or part of the Action in duly justified cases of cash flow shortage.</p> | <p>contradictory procedure with the Organisation shall take place before the decision on suspension is taken.</p> <p>The Organisation may submit a justified request for extension of the deadline to submit observations, which the Contracting Authority shall not unreasonably deny.</p> <p>Following the submission of observations, and in light of their content as well as of the alleged reasons for suspension, the Contracting Authority shall consult the Organisation in good faith in view of finding a solution and thereby avoiding the suspension of payments or the termination.</p> <p>Should the Contracting Authority decide to suspend payments, the Contracting Authority shall formally notify the Organisation of it specifying the reasons for the outcome, the date of effect and the conditions for resuming payments.</p> <p>During the suspension, no payment request can be submitted. However, if after receiving the observations of the Organisation the Contracting Authority agrees that part of the Action is not affected by the reason for suspension, it may decide to accept requests for payment exclusively with respect to that part of the Action.</p> <p>The suspension of payments does not alter/affect the eligibility of costs. The implementation of the Action can continue (subject to the Organisation being able to perform). However, the Organisation may decide the suspension of the implementation of all or part of the Action where the suspension of payments renders it impossible for the Organisation to continue the implementation. To this end, the Organisation shall provide elements to establish that the suspension of payments by the Contracting Authority would cause a cash flow shortage that would prevent the Organisation from continuing the implementation. The consultation between the Parties should aim to minimize the effects of suspension (for example, limiting the suspension to part of the Action when possible).</p> <p>The suspension lasts until the conditions for resuming payments are met. If not solution is reached, the procedure for termination (Article 13.3) shall be invoked.</p> |
| <p>12.5 In the situations listed in Article 13.1, the Contracting Authority may suspend payments as a precautionary measure informing the Organisation immediately in writing. The procedure described in Article 13.2 shall then apply.</p> | <p>In this case the suspension of payments serves as a precautionary measure before deciding whether to terminate the contract when a payment request is to be submitted before the termination of the contract takes place. The suspension is notified to the Organisation following the procedure established under Article 13.2. More specifically, the Contracting Authority will provide due notification of both its intention to terminate and the suspension of payments as precautionary measures.</p> |
| <p>12.6 The Contracting Authority may suspend all or part of the implementation of this Agreement in the situations listed in Article 12.3 b), c) and d). Before suspension, the Contracting Authority shall formally notify the Organisation of its intention to suspend, inviting the Organisation to make observations within 10 days from the receipt of the notification. If the Organisation does not submit observations, or if, after examination of the observations submitted by the Organisation, the</p> | <p>When the Contracting Authority is satisfied that there is evidence of one of the situations listed in Article 12.3(b), (c) and (d), it may decide to suspend the Agreement. This occurs when the situation warrants a suspension not only of payments but also of the eligibility of costs. It should be noted that in Multi-donor Actions, the suspension of the Agreement by the Contracting Authority does not result in the suspension of the Action, which might continue with respect to the part of the</p> |

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| <p>Contracting Authority decides to pursue the suspension, the Contracting Authority may suspend all or part of the implementation of this Agreement serving 7 days' prior notice. In case of suspension of part of the implementation of the Agreement, upon request of the Organisation, the Parties shall enter into discussions in order to find the arrangements necessary to continue the part of the implementation which is not suspended. Any expenditure or costs incurred by the Organisation during the suspension and related to the part of the Agreement suspended shall not be reimbursed or covered by the Contracting Authority. Following suspension of the implementation of the Agreement, the Contracting Authority may terminate the Agreement in accordance with Article 13.2, recover amounts unduly paid and/or, in agreement with the Organisation, resume implementation of the Agreement. In the latter case the Parties will amend the Agreement where necessary.</p> | <p>Action that is financed by other donors.</p> <p>The Agreement may be suspended in full or in part. In case of partial suspension it might be necessary to find practical arrangements with the Organisation in order to continue the part of the implementation which is not suspended. In this case, the costs related to the part of the Agreement that is not suspended remain eligible.</p> <p>If, following the suspension, the implementation is resumed, the Agreement might have to be amended to conform to the new situation (for example, for an extension of the implementation period).</p> <p>The Organisation may decide to suspend or terminate the implementation of all or part of the Action if the suspension renders it impossible for the Organisation to continue the implementation.</p> |
| <p>12.7 The Contracting Authority may also notify to the Organisation the suspension of the implementation of the Agreement if exceptional circumstances so require, in particular:</p> <ul style="list-style-type: none"> a) when a relevant EU Decision identifying a violation of human rights has been adopted³; b) in cases such as crisis entailing a change of EU policy. | <p>In this case the reasons for suspension are beyond control of the Organisation or its Sub-delegatees and are determined by external events that in most cases require immediate Actions. Under such circumstances no prior consultation with the Organisation is required and the suspension takes effect at the Organisation's receipt of the written notification.</p> |
| <p>12.8 In the situations listed in Article 12.7, following a written notification by the Contracting Authority, and following consultations 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, including new legal commitments, necessary for a possible resumption of the implementation of the Agreement. The Parties shall agree on such costs, including the reimbursement of legal commitments entered into for implementing the Agreement before the notification of the suspension was received which the Organisation cannot reasonably suspend, reallocate or terminate on legal grounds. 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, for Delegation Agreements, the contracting deadline, or to the termination of the Agreement in accordance with Article 13.3.</p> | <p>Normally during the suspension of the implementation of the Agreement the costs are not eligible. However, under such exceptional circumstances, such as crisis, the Organisation is likely to need to bear some costs or enter into new legal commitments in order to ensure the security of staff and supplies and guarantee a minimum structure in view of the possible resumption of the Agreement (E.g., costs of warehouse, repatriation of staff, salaries of staff which cannot be allocated to other projects and for which the termination of the contract would not be cost-effective, indemnities or damages which the Organisation might have to pay as a direct consequence of the suspension). These costs would therefore be considered eligible.</p> <p>These costs may include also the reimbursement of legal commitments entered into before the notification of the suspension was received by the Organisation, when these commitments cannot be reasonably suspended, reallocated or terminated.</p> <p>The Parties shall agree on the amount of minimum costs, including legal commitments. To this end, following the notification of the suspension, the Organisation will make a proposal to the Contracting Authority where it justifies the reasons of such costs for the Contracting Authority's approval. Agreement to cover minimum costs will not be unreasonably withheld.</p> |

³ For instance, (i) a decision pursuant to Article 215 of the Treaty on the Functioning of the European Union 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 European Commission decision suspending cooperation as a precautionary measure.

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| | <p>Upon resumption, the Agreement might require amendments to suit the new situation. Under Delegation Agreements and in case the Action is not a multi-donor Action, the Contracting Deadline can only be extended if it does not exceed three years after the signature of the Agreement.</p> <p>Either Party can decide to terminate the contract according to Article 13.3 of the Agreement.</p> |
| <p>Suspension of the Action by the Organisation, Force Majeure</p> <p>12.9 The Organisation may decide to suspend the implementation of all or part of the Action if exceptional or unforeseen circumstances beyond the control of the Organisation make such implementation impossible or excessively difficult, such as in cases of Force Majeure. The Organisation shall inform the Contracting Authority immediately and provide all the necessary details, including the measures taken to minimise any possible damage, and the foreseeable effect and date of resumption.</p> | <p>This provision covers the suspension of the implementation of the Action by the Organisation. This includes Force Majeure (as defined in the definitions) and other exceptional or unforeseen circumstances which are beyond control of the Organisation. This includes (inter alia) situations where there is an unacceptable risk to the security of staff members, experts or their contractors involved in the implementation of the Action. More specifically, the Organisation may cancel some or all of the scheduled activities if such a situation arises.</p> <p>The suspension takes effect immediately but the Organisation shall immediately inform the Contracting Authority and specify what measures are taken to minimise the damage and the foreseeable date of resumption.</p> |
| <p>12.10 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 or exceptional circumstances as set forth under Article 12.9, provided it takes any measure to minimise any possible damage.</p> | <p>The exclusion of responsibility is subject to the conditions that the breach is determined by the exceptional circumstances or Force Majeure; and, that the Organisation has taken any possible measures to minimise the damage.</p> |
| <p>12.11 The Parties shall minimise the duration of the suspension and the Organisation shall, resume implementation once the conditions allow, in consultation with the Contracting Authority. During the suspension period the Organisation shall be entitled to the reimbursement of the minimum costs, including new legal commitments, necessary for a possible resumption of the implementation of the Action. The Parties shall agree on such costs, including the reimbursement of legal commitments entered into for implementing the Action before the notification of the suspension was received by the Contracting Authority which the Organisation cannot reasonably suspend, reallocate or terminate on legal grounds. The Implementation Period is automatically extended by an amount of time equivalent to the duration of the suspension. In case of suspension by Force Majeure or if the Action is a Multi-Donor Action, the contracting deadline under Delegation Agreements is automatically extended by an amount of time equivalent to the duration of the suspension.</p> | <p>Same considerations as for the previous provision as concerns the minimum costs reimbursable.</p> <p>The Organisation shall inform through a written note that it resumes the implementation once the conditions allow.</p> <p>In case of suspension for Force Majeure or in Multi-Donor Actions, the Implementation Period and the Contracting Deadline are automatically extended by the time equivalent to the duration of suspension without need of an amendment to the Agreement.</p> |
| <p>12.12 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 13.3.</p> | |
| <p>Article 13: Termination and end date of the Agreement</p> | |
| <p>13.1 Without prejudice to any other provision of these General Conditions or penalties foreseen in the EU Financial Regulation where applicable, and with due regard to</p> | <p>The penalties foreseen in the EU Financial Regulation refer to administrative and financial penalties that the Contracting Authority under certain circumstances may impose in the context of PA Grant Agreements without prejudice to the privileges and immunities of the Organisation. This</p> |

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| <p>the principle of proportionality, the Contracting Authority may terminate the Agreement if the Organisation or Sub-delegatees:</p> <ul style="list-style-type: none"> a) fail to fulfil a substantial obligation incumbent on them under the terms of the Agreement; b) 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; c) are bankrupt or being wound up, or are subject to any other similar proceedings; d) are guilty of grave professional misconduct proven by any justified means; e) have committed fraud, corruption or any other illegal activity to the detriment of the EU's financial interests on the basis of proof in the possession of the Contracting Authority; f) fail to comply with the reporting obligations in accordance with Article 3.16; g) have committed any of the failings described in Article 12.3 on the basis of proof in the possession of the Contracting Authority. | <p>is not applicable to Delegation Agreements.</p> <p>The decision to terminate the contract is a last resort decision and should take into account the principle of proportionality. The reasons for termination apply to the Organisation and to its Sub-delegatees.</p> <p>Professional misconduct shall be understood as "all wrongful conduct which has an impact on the professional credibility of the operator at issue and not only the violations of ethical standards in the strict sense of the profession to which that operator belongs, which are established by the disciplinary body of that profession or by a judgement which has force of res judicata". The fact that the misconduct must be "grave" implies that the conduct denotes a wrongful intent or negligence of certain gravity. Accordingly, any incorrect, imprecise or defective performance of a contract or a part thereof could demonstrate the limited professional competence of the economic operator at issue, but does not automatically imply grave misconduct.</p> |
| <p>13.2 Before terminating the Agreement in accordance with Article 13.1, the Contracting Authority shall formally notify the Organisation of its intention to terminate, inviting the Organisation to make observations (including proposals for remedial measures) within 30 days from the receipt of the notification. If the Organisation does not submit observations, or if, after examination of the observations submitted by the Organisation, the Contracting Authority decides to pursue the termination, the Contracting Authority may terminate the Agreement serving 7 days' prior notice. During that period the Organisation may refer the matter to the responsible director in the European Commission. In such case the termination will take effect if and when confirmed by the director. In that event, the Contracting Authority may demand full repayment of any amounts paid in excess of the final amount determined in accordance with Article 20 or 27 after allowing the Organisation to submit its observations. Neither Party shall be entitled to claim indemnity by the other Party on account of the termination of this Agreement.</p> | <p>The Contracting Authority shall notify the Organisation of its intention to terminate and the reasons thereof. The Organisation has 30 days from the receipt of the notification to submit its observations. The Organisation may submit a justified request for an extension of the 30-day deadline which shall not be unreasonably denied by the Contracting Authority.</p> <p>The costs incurred during the formal contradictory procedure and the 7 days prior notice remain eligible and will be reimbursed provided they satisfy the eligibility criteria.</p> <p>During the 7 days prior notice the Organisation can refer the matter to the responsible Director. This escalation has the effect of suspending the decision to terminate and the termination will take effect only if and when confirmed by the Director.</p> <p>In the event of termination of the Agreement pursuant to Article 13.2, the final amount of the EU contribution shall be determined in accordance with Articles 20 or 27 on the basis of the part of the Action carried out up to the date of termination.</p> <p>No indemnity or damage can be claimed by either Party on the account of the termination.</p> |
| <p>13.3 If, at any time, either Party believes that the purpose of the Agreement can no longer be effectively or appropriately carried out, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement by serving 60 days written notice. In this case, the Final Amount shall cover:</p> <ul style="list-style-type: none"> i) payment only for the part of the Action carried out up to the date of termination; ii) in the situations described in Articles 12.7, 12.9 and 30.4, to the unavoidable residual expenditures incurred during the notice period; and, | <p>In addition to the situations listed in Article 13.1, the Agreement can be terminated if either Party believes that the purpose of the Agreement can no longer be carried out. In this case, the Parties have to consult each other to find a solution and if no agreement can be found, either Party may terminate the Agreement by serving 60 days written notice.</p> <p>The costs incurred during the consultations and the 60 days prior notice remain eligible and will be reimbursed provided they satisfy the eligibility criteria.</p> |

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| <p>iii) in the situations described in Articles 12.7 and 12.9 under a Delegation Agreement reimbursement of legal commitments it entered into for implementing the Action before the written notice on termination was received by the other Party and which the Organisation cannot reasonably terminate on legal grounds.</p> <p>The Contracting Authority shall recover the remaining part in accordance with Article 15.</p> | <p>The final amount of the EU contribution shall be determined in accordance with Articles 20 or 27 on the basis of the part of the Action usefully carried out up to the date of termination.</p> <p>In addition, when the termination is due to reasons which are beyond the control of the Organisation (situations described under Articles 12.7, 12.9 and 30.4, the Organisation is entitled also to the reimbursement of the unavoidable residual expenditures (i.e. costs with the closure of the Action) incurred during the notice period, meaning the costs necessary for the closure of the activities financed under the Agreement.</p> <p>In the same situations under Delegation Agreements (situations described under Articles 12.7 and 12.9) the Organisation is also entitled to the reimbursement of the costs of the legal commitments it entered into for implementing the Action before the written notice was received and which the Organisation cannot reasonably terminate on legal grounds.</p> |
| <p>13.4 In the event of termination, a final report and a request for payment of the balance have to be submitted according to Articles 3.7, 3.8 and 19 or 26. The Contracting Authority shall not reimburse or cover any expenditure or costs which are not included or justified in a report approved by it.</p> | |
| <p>End date</p> <p>13.5 The Agreement shall end by the “End Date”, which is the moment of the payment of the balance by the Contracting Authority in accordance with Article 19 or 26 or when the Organisation repays any amounts paid in excess of the final amount due pursuant to Article 20 or 27. If any of the Parties invokes a dispute settlement procedure in accordance with Article 14, the End Date is postponed until the completion of such procedure.</p> | |
| <p align="center">Article 14: Applicable law and settlement of disputes</p> | |
| <p>14.1 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.</p> | <p>Amicable settlement is conceived of as the primary remedy for any disagreement concerning the interpretation, application or fulfilment of the Agreement.</p> <p>In case the Contracting Authority is a Partner Country, the disputed issue can be referred to the Commission for mediation purposes, particularly when the disagreement concerns questions of interpretation of the contractual templates.</p> |
| <p>14.2 Where the Organisation is not an international organisation and the European Commission is the Contracting Authority, this Agreement is governed by EU law, complemented if necessary by the relevant provisions of Belgian law. Under a Delegation Agreement, in default of amicable settlement and unless otherwise agreed by the Parties, 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. Under a PA Grant Agreement, in default of amicable settlement and unless otherwise agreed by the Parties, any Party may refer the matter to the Brussels courts.</p> | <p>In the event the Organisation is not an international organisation, when no agreement is reached, following this settlement attempt, the Parties may refer the matter to conciliation (see Article 14.3 of the General Conditions) or to judicial courts (see Articles 14.2 and 14.3 of the General Conditions).</p> |
| <p>14.3 Where the Organisation is not an international Organisation and the European Commission is not the Contracting Authority, the Agreement shall be governed by</p> | |

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| <p>the law of the country of the Contracting Authority and the courts of the country of the Contracting Authority shall have exclusive jurisdiction, unless otherwise agreed by the Parties. The dispute may, by common agreement of the Parties, be submitted for conciliation to the European Commission. If no settlement is reached within 120 days of the opening of the conciliation procedure, each Party may notify the other that it considers the procedure to have failed and may submit the dispute to the courts of the country of the Contracting Authority.</p> | |
| <p>14.4 Where the Organisation is an international Organisation:</p> <ul style="list-style-type: none"> a) nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities accorded to any Party by its constituent documents, privileges and immunities agreements or international law; b) in the absence of amicable settlement in accordance with Article 14.1 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 Organisations 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. | <p>In the event the Organisation is an international organisation, when no agreement is reached, following this settlement attempt, the dispute can be referred to arbitration (article 14.4 (b) of the General Conditions).</p> |
| <p style="text-align: center;">Article 15: Recovery</p> | |
| <p>15.1 Where an amount is to be recovered under the terms of the Agreement, the Organisation shall repay to the Contracting Authority the amount due.</p> | |
| <p>15.2 Before recovery, the Contracting Authority 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 days from the date of receipt of the notification. If, after examination of the observations submitted by the Organisation or if the Organisation does not submit any observations, the Contracting Authority decides to pursue the recovery procedure, it may confirm recovery by formally notifying the Organisation. If there is a disagreement between the Organisation and the Contracting Authority on the amount to be repaid, the Organisation may refer the matter to the responsible director in the European Commission within 30 days. After the deadline or the director's decision, as the case may be, the Contracting Authority may issue a debit note specifying the terms and the date for payment.</p> | <p>Article 15.2:</p> <p>Such notification shall be sent to the Organisation's focal point designated in the Special Conditions of the Agreement.</p> |
| <p>15.3 If the Organisation does not make the payment by the date specified in the debit note, the Contracting Authority shall recover the amount due:</p> <ul style="list-style-type: none"> a) by offsetting it against any amounts owed to the Organisation by the EU; b) by taking legal Action in accordance with Article 14; c) in exceptional circumstances, justified by the necessity to safeguard the | <p>Article 15.3:</p> <p>This, in practice, applies to contracts under which the Commission makes the payments to the Organisation.</p> |

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| <p>financial interests of the EU, the Contracting Authority may, when it has justified grounds to believe that the amount due would be lost, recover by offsetting before the deadline specified in the debit note without the Organisation's prior consent.</p> | |
| <p>15.4 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 19.5(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 Contracting Authority actually receives payment in full of the outstanding amount. Any partial payment shall first cover the interest.</p> | |
| <p>15.5 Bank charges incurred from the repayment of amounts due to the Contracting Authority shall be borne entirely by the Organisation.</p> | |
| <p>15.6 Where the European Commission is not the Contracting Authority, it may, if necessary, proceed itself to the recovery.</p> | |
| <p>15.7 Where the Contracting Authority is the European Commission, it may waive the recovery in accordance with the principle of Sound Financial Management and proportionality or it shall cancel the amount in the event of a mistake.</p> | <p>Article 15.7:</p> <p>The circumstances when the Commission may waive a recovery order are set out in articles 80 of the Financial Regulation (FR) and 91 of its Rules of application (RAP).</p> |
| <p style="text-align: center;">Article 16: Accounts and archiving</p> | |
| <p>Accounting</p> <p>16.1 The Organisation shall keep accurate and regular records and accounts of the implementation of the Action. The accounting Regulations and Rules of the Organisation shall apply, provided that these Regulations and Rules conform to internationally accepted standards. Financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the Regulations and Rules of the Organisation.</p> | <p>Article 16.1:</p> <p>In view of the numerous cases where the Court of Auditors or external auditors have identified ineligible costs due to the lack of supporting documents, the Organisation should take particular note of the very serious financial consequences that could result from wrongful or belated implementation of this contractual obligation.</p> |
| <p>16.2 Under a Delegation Agreement, if interest on pre-financing is due the accounting methods of the Organisation shall make it possible to identify the payments of EU funds and the interest or other benefits yielded by those funds.</p> | <p>By default, interest on pre-financing is not due. Should the Organisation have the obligation to pay interest, in accordance with its Regulations and Rules (namely, to ensure equal treatment between donors), the conditions for the payment of such interest should be introduced in the Special Conditions.</p> |
| <p>Archiving</p> <p>16.3 For a period of five years from the End Date defined in Article 13.5 or up to the date of the limitation period of any claim pursuant to the applicable law governing the Agreement and any Procurement Contracts or Grants concluded under the Agreement if the latter last longer, the Organisation shall keep and make available according to Article 17 all relevant financial information in its original form (electronic as the case may be⁴) or, in exceptional and duly justified cases, certified</p> | <p>Article 16.3:</p> <p>Supporting documents are not required in order to close out the action and make the final payment. Supporting documents must, however, be retained for 5 years after the "end date" of the action and may need to be presented in the course of a verification of the action.</p> <p>The five-year period may be extended, should the Organisation become aware of the initiation of</p> |

⁴ Electronic documents can be accepted where the documentation was first received or created (e.g. an order form or confirmation) by the Organisation in electronic form; or the Organisation uses an electronic archiving system which meets reliable standards.

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| copies of original documents related to the Agreement and to any Procurement Contracts, Grant agreements and financial support to third Parties concluded under this Agreement. | any claims, In such a case, the custody of documents containing financial information and identified as potentially relevant to the claim should be extended until such time as the claim has been dropped, settled or dismissed. |
| Article 17: Access and financial checks | |
| 17.1 The Organisation shall allow the European Commission and the European Court of Auditors, or any other authorised representatives 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. | <p>Authorised EC representatives shall include for example external auditors commissioned by the European Commission to audit or verify the Action.</p> <p>For the purpose of this Article, verification missions are conducted when the Organisation is an international organisation. In case the Organisation is not an international organisation, an audit will take place.</p> |
| 17.2 The Organisation agrees that OLAF may carry out investigations, including on-the-spot checks, in accordance with the provisions laid down by EU law for the protection of the financial interests of the EU against fraud, corruption and any other illegal activity and, where applicable, any administrative cooperation arrangements concluded between OLAF and the Organisation's anti-fraud bodies. | <p>With respect to the present Article, it is understood that the investigations will be carried out pursuant to any <u>Administrative Cooperation Arrangement</u> (ACA) signed between OLAF and the international Organisation (if applicable). OLAF will retain the right to carry out investigations in view of protecting EU interests also in absence an Administrative Cooperation Arrangement.</p> <p>The Administrative Cooperation Arrangement will set out , <i>inter alia</i>, the details and modalities for the implementation of Article 17.2 and Article 17.3 of the General Conditions for what concerns specifically OLAF.</p> <p>For the purpose of this Article, the scope of the investigations, including on-the-spot checks, shall be limited to the protection of the financial interests of the EU in relation to the Action. The references to EU law relate only to the procedures applicable to OLAF in order to carry out investigations, including on-the-spot checks.</p> <p>1. General rules:</p> <p>For the cooperation between OLAF and the Organisation under this article the following general rules apply:</p> <p><u>Privileges and immunities</u></p> <p>In its investigations, OLAF will respect any privileges and immunities to which the organisation may be entitled to.</p> <p><u>Confidentiality</u></p> <p>Information communicated to OLAF is protected by professional secrecy in accordance with Article 10 of Regulation (EU, Euratom) 883/2013.</p> <p><u>Personal data protection</u></p> <p>OLAF will handle and process any personal data received from the Organisation in accordance with Regulation (EC) 45/2001.</p> <p><u>Contact person</u></p> |

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| | <p>The Organisation should designate a contact person for the exchange of information and any other communication related to the investigative cooperation with OLAF.</p> <p>2. Administrative cooperation arrangement with OLAF</p> <p>Article 17.2 of the PAGoDA states that OLAF may carry out investigations in accordance with the provisions laid down by EU law and, <i>“where applicable, any administrative cooperation arrangements concluded between OLAF and the Organisation's anti-fraud bodies.”</i></p> <p>The interpretation of this paragraph is that the negotiation and conclusion of an Administrative Cooperation Arrangement (ACA) with OLAF is not mandatory for the implementation of this Article. Article 17 offers a sufficient legal basis for cooperation in this respect.</p> <p>This reference is intended to take into account ACAs already signed by OLAF with international organisations as part of its general external relations policy. In case of UN agencies and bodies, there is the possibility to adhere and apply one of the already concluded ACAs with UN-OIOS or UNDP. The intention to do so should be expressed in a letter addressed to the OLAF Director-General.</p> <p>3. Practical guidelines for the investigative cooperation between OLAF and the organisation</p> <p><u>Initial information</u></p> <p>In connection with operations financed under PAGoDA, the Organisation will inform OLAF without delay of credible allegations of fraud, corruption, collusion, or coercion and any other illegal activities affecting the financial interests of the EU. Such allegations should be communicated to OLAF Head of Unit 0.1 "Investigation Selection and Review" (OLAF-FMB-SPE@ec.europa.eu). Based on this initial information the organisation and OLAF will identify cases for further cooperation.</p> <p><u>Exchange of information</u></p> <p>In accordance with article 17.3 of the PAGoDA, OLAF may submit a written request to the Organisation to provide necessary information or documents concerning the technical and financial management of operations financed under PAGoDA. When requesting such information or documents, OLAF will state the purpose of the request, what information or documents are requested and the time in which it would like the information to be provided.</p> <p>The requested documents or information may be provided by any means, including in paper or electronic form, attached to a note, e-mail or during meetings, and may be copied, kept, stored and used for the purpose of OLAF investigations in connection with operations financed under PAGoDA.</p> <p>When appropriate, OLAF and the Organisation may agree to set up ad hoc joint or parallel investigations in order to conduct checks and inspections or other investigative activities.</p> |
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| <p>17.3 To that end, the Organisation undertakes to provide officials of the European Commission, OLAF and the European Court of Auditors and their authorised agents, upon request, information and access to any documents and computerised data concerning the technical and financial management of operations financed under the Agreement, as well as Grant them access to sites and premises at which such operations are carried out. The Organisation shall take all necessary measures to facilitate these checks in accordance with its Regulations and Rules. The documents and computerised data may include information which the Organisation considers confidential in accordance with its own established Regulations and Rules or as governed by contractual agreement. Such information once provided to the European Commission, OLAF, the European Court of Auditors, or any other authorised representatives, shall be treated in accordance with EU confidentiality rules and legislation and Article 6. Documents must be accessible and filed in a manner permitting checks, the Organisation being bound to inform the European Commission, OLAF or the European Court of Auditors of the exact location at which they are kept. Where appropriate, the Parties may agree to send copies of such documents for a desk review.</p> | <p>The procedure for verification, audit and investigations responds to the need for the European Commission to rest reassured about the financial management of the Action by the Organisation.</p> <p>In case the European Commission, OLAF, the European Court of Auditors, or any other authorized representatives requests information or documents which the Organisation considers confidential, the Organisation shall provide such information. The way of sharing the information will be affected by the Organisation's policy on information disclosure.</p> |
| <p>17.4 In case of the European Commission or their authorised agents, if the Organisation is an international Organisation, verifications shall cover on-the-spot checks and desk-reviews and follow any verification provisions agreed with the European Commission. If the Organisation is not an international Organisation an investigation or audit may be performed.</p> | <p>A verification is not an audit, but an agreed upon procedures engagement. Verifications of IOs are always risk based. It is of utmost importance to understand the differences between the two and not to confuse one with the other.</p> <p>Verifications should be carried out in accordance with the agreements between the European Commission and the International Organisation. There are Framework agreements with several International Organisations (for example, the United Nations, the World Bank Organisation for Economic Co-operation and Development, and the Council of Europe). In some cases there may be further documents agreed between EC and the International Organisation (<u>such as Common Terms of Reference for Verification Missions</u>).</p> <p>For International organisations which do not have such Framework Administrative Agreement and for all other types of Organisations, the European Commission will apply its Rules and Procedures for auditing and/or verification purposes.</p> <p>Previous monitoring, evaluation, European Court of Auditors or OLAF missions relating to the Action may not be invoked by the Organisation to refuse an audit or a verification mission on that same Action.</p> <p>Planning</p> <p>The decision to conduct a verification mission can be taken by a respective Authorizing Officer (AO). While considering whether to do so, the AO should take into account the following:</p> <ul style="list-style-type: none"> • Timing - ideally the verification mission should take place during the lifetime of the project; • Have there already been other verification missions (by EuropeAid or other European Commission's service) conducted on the same project or office or International Organisation? If yes what were the findings? (repetitions/multiplications should be |

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| | <p>avoided in case there were not any major issues raised);</p> <ul style="list-style-type: none"> • Is there any audit information on the project (co)funded by the EU? If yes, the AO may request such information to be provided, where possible and available, and - based on the information provided - decide whether the verification mission is still necessary. • The European Commission provides a consolidated list of planned Verifications for UN actions in the first quarter of each year. If the AO considers that a verification mission of a UN-implemented Action is necessary s/he should inform the focal point in EuropeAid (DEVCO R2) of his/her intention in due time in order for this information to be included in the indicative verification plan. <p>Conduct of a verification mission</p> <p>The decision to conduct a verification mission should be announced to the International Organisation in due time.</p> <p>The EU Authorising Officer shall ensure that the verification team is properly briefed by the European Commission on the verification process, its scope, nature, conduct and outcome. There may be differences in verification procedures depending on the International Organisation.</p> <p>The verification mission draft report must be transmitted to the International Organisation as soon as it is available. The International Organisation will review the report and provide its comments which shall be reflected in the report. As a result, certain findings may be cancelled or adjusted. A copy of the final verification report will be transmitted to the International Organisation as per the agreed communication lines. All this shall be done in a timely manner.</p> <p>The verification missions' reports are not public. Requests to access such reports will be analysed on a case-by-case basis in consultation with the International Organisation concerned before any communication of the report. These documents are subject to the Regulation (EC) No <u>1049/2001</u> regarding public access to EU documents, and in particular its article 4.</p> <p>The final verification mission report & follow up on the findings</p> <p>A verification mission final report is a management tool at the disposal of the AO. It is not an audit report and therefore shall not be considered to present an audit opinion.</p> <p>The responsibility to follow up on factual findings lies with the operational and/or the financial officers who requested the verification.</p> <p>If there are financial findings a contradictory process between the AO and the International Organisation shall be started in order for the International Organisation subject to verification and the AO to discuss the findings indicated in the final report. For instance, for amounts considered ineligible by the verifiers for EU funding and contested by the International Organisation, the AO shall examine whether the amount concerned is indeed ineligible (the eligibility criteria are set out in each contract/agreement concluded between the EU and the International Organisation) given the specific conditions applicable in the PAGoDA.</p> <p>In case the parties cannot agree on certain findings in the final verification report, the case should</p> |
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| | <p>be reported to the next hierarchical level.</p> <p>Ineligible expenditure found may lead to a recovery of the concerned amount by the EU. In such case the terms of the specific contract/agreement must be reviewed to determine the amount to be recovered taking into account e.g. whether the action is fully-funded by the EU, whether the EU contribution is reflected as a percentage of eligible costs etc.</p> <p>In practical terms, only after receipt and examination of the comments of an International Organisation concerning the findings there might be a pre-information notice and a subsequent debit note.</p> <p>Other findings shall be addressed within the framework of the project (if it is still on-going) or in the context of the broader cooperation with the International Organisation (for future projects). In practical terms, the operational or financial officer shall convene a meeting with the International Organisation during which the correctness (vis-à-vis provisions of a specific contribution agreement and applicable framework agreements) of the findings should be reviewed. Where possible, a mutually acceptable way forward shall be agreed.</p> |
| 17.5 The European Commission shall inform the Organisation of the planned on-the-spot missions by agents appointed by the European Commission in due time in order to ensure adequate procedural matters are agreed upon in advance. | |

Part II: Additional Provisions applicable only to Delegation Agreements

| Text of the Article | Interpretation/ Guidelines on application |
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| Article 18: Acceptable expenditure under Delegation Agreements | |
| <p>18.1 The Contracting Authority shall accept expenditure which meets all the following criteria:</p> <p>a) it is necessary for carrying out the Action, directly attributable to it and arising as a direct consequence of its implementation.</p> <p>For that purpose, it falls within one of the following categories as described in accordance with Annex I:</p> <p>(i) costs of funding by the Organisation in the form of:</p> <ol style="list-style-type: none"> 1. Procurement Contracts to be awarded for the benefit of the partner country or of the relevant beneficiary population of the Action in accordance with Annex I, including: <ul style="list-style-type: none"> - Contracts for works, equipment (new or used) and assets, provided that ownership is transferred at the end of the Action when required in Article 9; - Contracts for consumables and supplies, provided that, for EU External Action, ownership of remaining major supplies is transferred at the end of the Action in accordance with Article 9; - Contracts for services. <p>The acceptable costs of Procurement Contracts may include duties, taxes and charges, including VAT, if they are not recoverable by the Organisation, and unless otherwise provided for in the Special Conditions;</p> 2. Grants to be paid to Grant Beneficiaries in accordance with Annex I; <p>(ii) where the Action includes other tasks than Budget Implementation Tasks clearly identified in Annex I, which are directly implemented by the Organisation:</p> <ol style="list-style-type: none"> i. costs of procurement contracts and Grants referred to in point (i), and required for the implementation of tasks other than Budget Implementation Tasks; ii. costs of staff (working under an employment contract or | <p>Article 18.1:</p> <p>Art. 18.1.a (ii) ii to be read in line with art. 18.3.</p> <p>Accepted expenditure refers to costs actually incurred by the Organisation which meet all the eligibility criteria at the same time, and do not fall under the category of unacceptable expenditure in Article 18.7.</p> <p>→ Letter a):</p> <p>It is important to pay particular attention to explain which specific resources and related costs are needed for the implementation of the Action, in order to justify their link with the Action (activities, results and objectives) and therefore their funding. Not specification of activities in the Description of the Action is a frequent source of cost ineligibility.</p> <p>Article 18.1 a) lists some categories of direct costs that may be acceptable expenditure subject to specific conditions, notwithstanding the general criteria set out in article 18.1. The acceptability of costs is also determined by compliance with the procurement rules set out in Article 23. If the Delegates and Sub-delegates do not follow these rules, the Contracting Authority may not approve the costs incurred and may reduce the final amount of the EU Contribution accordingly.</p> <p>Please consider in a(i):</p> <p>The Organisation can apply its own rules for the award of Procurement and Grant contracts provided the provisions of art. 23 on Procurement and Grant contracts are respected and that the Organisation was positively pillar assessed.</p> <p>Please consider in a(ii)ii:</p> <p>Staff costs are acceptable expenditure provided that the staff is essential and directly assigned to the implementation of tasks other than Budget Implementation , these tasks are explicitly mentioned in the Description of the Action and they are directly implemented by the Organisation.</p> <p>The acceptable expenditure is constituted by gross salaries or wages in respect of the actual</p> |

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| <p>equivalent appointing act) directly assigned to the tasks other than the Budget Implementation Tasks, as identified in Annex I. These shall correspond to gross salaries including social security charges and other remuneration-related costs provided that they are in line with the usual remuneration practices of the Organisation, and excluding any other cost such as indirect costs, provisions or reserves and bonuses; The costs of natural persons seconded by a third party to the Organisation against payment or working under a contract with the Organisation other than an employment contract may be assimilated to such costs of staff, if the following conditions are fulfilled:</p> <ol style="list-style-type: none"> 1. the natural person works under the instructions of the Organisation and, unless otherwise agreed with the Organisation, in the premises of the Organisation; 2. the result of the work belongs to the Organisation; and 3. the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the Organisation; <p>The Organisation shall retain evidence regarding the time worked by the staff on the tasks other than the Budget Implementation Tasks, be that through a time-recording system, a reliable method of apportionment or through an employment contract stipulating the precise assignment to those other tasks;</p> <p>iii. travel and subsistence costs for staff and other persons directly assigned to the tasks other than the budget implementation tasks, as identified in Annex I, provided that they are in line with the usual practices of the Organisation on travel;</p> | <p>time devoted to the project and include income taxes, social security etc., and other statutory costs included in the remuneration, provided they are recorded and reported in line with standard Human Resources policy of the Organisation and can be proved by supporting documents of the Organisation..</p> <p>For example, medical insurance, repatriation, relocation, visa costs, housing allowance, salary adjustments, other benefits etc. may only be acceptable expenditure if they respect all applicable legislation, constitute a standard practice of the Organisation and are actually paid. Staff costs may therefore include contributions for pension, health insurance and unemployment insurance schemes (including loss of employment indemnities or terminal emoluments) arising from national law, collective labour agreement or the employment contract (or equivalent appointing act), or the Rules and Regulations of the Organisation.</p> <p>They should be traceable to supporting schedules (number and names of staff, part-time / full time indication), to payroll records (e.g. salary slips), and to Human Resources records (e.g. employment contracts).</p> <p>A pro-rata system based on estimations cannot be used to justify direct costs, since such a system would not represent real costs (but only estimation). For example it may be accepted that a country director works 20% on a Delegation Agreement if supported by timesheets or any other evidence, justifying that he actually worked those hours or days on this Action. The time worked and the costs linked to it represent closely the reality. However, it cannot be accepted that a country director's working time is divided equally on a pro-rata basis on 5 different Actions, based on the assumption that he spends equal time on all projects - because such an assumption does not necessarily reflect reality.</p> <p><u>HQ staff</u> If:</p> <ul style="list-style-type: none"> -staff is essential -staff is directly assigned to the implementation of tasks other than Budget Implementation, -these tasks are explicitly mentioned in the Description of the Action -these tasks are directly implemented by the Organisation. <p>then the location of staff as such is not a criterion.</p> <p>HQ-based professionals, with due consideration to the description and the functional Organisation of the Action and of the Organisation, they may be charged as direct costs in the following circumstances:</p> <ul style="list-style-type: none"> ▪ they relate to the achievement of the Action's operational results and have accordingly been identified as an operational activity in the description of the Action; ▪ they cover the actual involvement of HQ staff in the implementation of the Action (e.g. specific monitoring missions, needs assessment, technical assistance etc.). This means that a simple % is not acceptable, a specific pro-rata related, for instance, to the actual |
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| | <p>days/months dedicated to the Action;</p> <ul style="list-style-type: none"> ▪ they must be well justified in the framework of the Action and accepted by the Contracting Authority. <p>Consultants (versus Employees)</p> <p>As a general rule, tasks performed by consultants, experts and/or other service providers (e.g. accountants, lawyers, translators, external IT staff, etc...) are to be considered as resulting from implementation contracts (Article 23). These costs are thus not considered as "staff costs" but as other costs/services.</p> <p>Specific case: "in-house consultants":</p> <p>In house/"intra muros" consultants are natural persons working on the basis of a service contract as opposed to employees hired on the basis of a labour contract. They join an Organisation project team and deliver 'external services'. The costs arising from these in-house consultants are in principle to be considered as costs from Procurement contracts. In order to be considered as staff costs the three conditions stated in 18.1.a.ii.ii have to be met.</p> <p>Special case: The Organisation may alternatively declare the above acceptable costs of staff, on the basis of unit costs (hourly or daily or half-daily rates) determined by the Organisation according to its usual cost accounting practices (refer to Article 18.2 and 18.3).</p> <p>Please consider in a)(ii)iii:</p> <p>Where required for the implementation of the Action and in line with the general eligibility principles of Article 18.1, travel and subsistence costs of any person directly assigned to the tasks other than the budget implementation tasks.</p> <p>Please consider the COMMISSION DECISION C(2015)3174, from 18.5.2015, on Field-office costs and Management Administrative structures.</p> <p>Costs for Field Offices, Dedicated Structures and Staff Costs under the PAGoDA template</p> <p>The clarifications below are adapted to the terminology of the Delegation Agreements. For the purpose of interpreting the decision on Field Office Costs, the same reasoning is applied for Pillar Assessed Grants (despite the fact that the categories of costs do not always cover the same type of tasks) according to the following table:</p> |
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| Delegation Agreement | Pillar Assessed Grant |
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| BIT, Budget Implementation Tasks | Management and administration tasks of the grant (other than management of procurement and financial support to third parties which are activities of a grant contract and are eligible direct costs) |
| DIA, Directly Implemented Activities | Staff directly assigned to the action (including staff managing the procurement and financial support to third parties) |
| Acceptable expenditure | Eligible direct costs |
| Remuneration | Indirect costs |

Field Offices:

Location

The Commission may require and agree in the description of the Action to set up or use a pre-existing Field Office.

Field Offices have to be in one of the partner countries where the action is implemented (i.e. country of operation or country benefiting from the action) or in a nearby country.

The Decision C(2015)3174 explicitly excludes the possibility to have a Field Office in the country where the Organisation has its HQ (except when the HQ are located in a partner country).

Acceptability of costs

All activities performed in a Field Office are considered to be DIA. Consequently, as long as they comply with the acceptability requirements stated in the General Conditions, the costs necessary for the operation of the Field Office are acceptable expenditure, including rental under point 7.1.b.iii of the Special Conditions (see next paragraph) as well as staff costs whatever the nature of the tasks performed.

Buildings are assets, office space is also considered to be an asset. The Decision in paragraph 1.1.a(ii) and the PAGoDA Special Conditions in Article 7.1.b.iii include in the list of acceptable costs, the cost of equipment, assets and supplies directly used for the implementation of the action. Therefore rental of the office is covered.

The acceptable costs of equipment, assets and supplies may include the costs of equipment,

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| | <p>assets and supplies specifically purchased for the operation of the Field Office.</p> <p>Non- exclusivity A Field Office may be exclusively dedicated to the action financed or co-financed by the EU or may be used for other projects implemented in the partner country, therefore the costs may be shared among different projects (on the basis of actual costs⁵ or on the basis of a simplified allocation method using the Organisation's usual accounting practices). Adequate record and documentation must be kept by the Organisation to prove the compliance of the simplified allocation method used with the conditions set out by the Commission Decision C(2015)3174. Upon request of the Organisation, this compliance can be assessed and approved ex-ante by the Commission in accordance with the above Decision. In such a case, the simplified allocation method applied could not be challenged ex post.</p> <p>Number of field offices There can be several Field Offices for the same project (in particular where the action is implemented in several third countries).</p> <p><u>Dedicated Structures:</u></p> <p>Location The Commission may require and agree in the description of the Action to set up or use a pre-existing structure (with its own staff and offices) as far as it is exclusively dedicated to the action. The Dedicated Structure could also be located in the country where the Organisation has its HQ or its regional offices.</p> <p>Acceptability of costs (in particular office rental and staff costs)</p> <p>All activities performed in a Dedicated Structure are considered to be DIA. Consequently, as long as they comply with the acceptability requirements stated in the General Conditions, the costs necessary for the operation of the Dedicated Structure can be considered acceptable expenditure, including rental costs (see next paragraph) and staff costs whatever the nature of the tasks performed (including BIT).</p> <p>Buildings are assets, office space is also considered to be an asset. The decision at paragraph 1.1.a(ii) and the special conditions at Article 7.1.b.iii include in the list of acceptable costs the cost of equipment assets and supplies directly used for the implementation of the action. Therefore rental of the office is covered.</p> <p>The acceptable costs of equipment assets and supplies may include the costs of equipment, assets and supplies specifically purchased for the operation of the Dedicated Structure.</p> <p>Possible derogation to the exclusivity</p> |
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⁵ Actual or real cost is the value the item represents in the Organisation's accounts.

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| | <p>A Dedicated Structure has to be exclusively dedicated to the action as per paragraph 1.1.(a)(i) of the Decision C(2015)3174.</p> <p>However when the Organisation already has its HQ or other permanent offices in the country where the Dedicated Structure is to be located, it could be inefficient and create additional charges to the EU budget to rent extra office space elsewhere. A derogation to the Decision on the basis of the principle of Sound Financial Management could be envisaged in these cases, allowing the Dedicated Structure to be located within the existing offices.</p> <p>Staff pertaining to the Dedicated Structure must be identified and their costs will be entirely charged to the related project (100%). For office-related costs, the apportionment method used by the Organisation will be applied, according to its internal accounting practices. The portion attributed to the Dedicated Structure according to this apportionment method will be entirely charged to the project. Other costs not pertaining to the Dedicated Structure will be covered by the Remuneration in the case of HQ or other permanent offices.</p> <p>It is therefore possible to include in Article 7 of the Special conditions:</p> <p>"As described in the Description of the Action (Annex I), a dedicated structure shall be established for the implementation of the Action. Based on the principle of Sound Financial Management it is agreed that the Organisation will set up a Dedicated Structure in the premises of its HQ/regional offices and will declare the corresponding costs based on an apportionment done in accordance with the accounting practices of the Organisation".</p> <p>This derogation must be duly justified and the efficiency gains demonstrated in a request to the relevant director, encoded in CRIS as Exception 7c.</p> <p>Number of Dedicated Structures</p> <p>Having more than one Dedicated Structure is not explicitly excluded by the Decision C(2015)3174. The Commission can therefore require and agree in the description of the Action to set up or use more than one Dedicated Structure.</p> |
| <p>b) it is actually incurred by the Organisation, i.e. it represents real expenditure definitely and genuinely borne by the Organisation. Amounts that shall be recovered by the Organisation in accordance with Article 2.4 shall not be considered as expenditure actually incurred;</p> <p>c) it is reasonable, justified and complies with the principle of Sound</p> | <p>→ Letters b) c) and d):</p> <p>Costs have to be related to and generated by activities carried out within the implementation period of the Action (as defined in Article 2 of the Special Conditions) and in accordance with</p> |

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| <p>Financial Management in accordance with the Organisation's rules and procedures;</p> <p>d) it is incurred during the Implementation Period:</p> <ul style="list-style-type: none"> i) Grants to Grant Beneficiaries are acceptable if the activities supported by the Grants are implemented during the Implementation Period; ii) Costs of services, works and supplies are acceptable if the services, works and supplies are delivered during the Implementation Period; <p>e) it is identifiable and verifiable pursuant to Article 16, in particular it is:</p> <ul style="list-style-type: none"> i) recorded in the accounting records of the Organisation and determined according to the usual accounting practices of the Organisation; ii) backed by effective supporting evidence (originals, as the case may be in electronic form); <p>f) it is indicated under one of the categories of costs in the estimated budget in Annex III, distinguishing between the estimated costs of Budget Implementation Tasks and the estimated costs of other tasks, if any;</p> <p>g) it complies with the applicable tax and social legislation taking into account the respective Organisation's privileges and immunities.</p> | <p>the Delegation Agreement.</p> <p>To be considered acceptable expenditure, costs must be actually incurred by the Organisation, and must have generated an obligation to be paid directly by the Organisation.</p> <p>It is worth reminding that costs that might have been deemed acceptable at a first glance in the reports may be declared not acceptable following a verification carried out according to Article 17.</p> <p style="text-align: center;">→ Letter e)</p> <p>All the costs incurred – corresponding to the entire budget of the Action and not only to the EU Grant contribution – must be recorded in the accounts of the Organisation. The supporting documents (tenders, orders, vouchers, invoices, receipts etc.) must exist, be available for inspection and accurately reflect the recorded costs. See also Article 16 for more details.</p> <p>The Organisation is responsible for verifying and consolidating the information that will be provided to the Contracting Authority; therefore it should as well make sure that the conditions for the eligibility of costs are met, through appropriate supervision of its Sub-delegatee(s) and appropriate internal arrangements. See also art. 2.4, 2.5 and 21 of the General Conditions.</p> <p>It is strongly advisable for the Organisation to keep (electronic) copies of all relevant documents and accounts and to carry out ex-ante and -where applicable based on its risk assessment processes - ongoing intermittent checks to ensure that supporting and accounting documents are available, correct, and duly filed and recorded.</p> <p>The Organisation bears the ultimate financial responsibility for the entire Action and must reimburse to the Contracting Authority any cost declared unacceptable (unless the reimbursement relates exclusively to a Co-Beneficiary who has also been pillar-assessed, see Article 30.2 g).</p> <p>The "accounting standards applicable to the Organisation refer to the rules to which the Organisation is subject to by law. If the Organisation is not governed by any national or international accounting rules, this condition simply does not apply.</p> <p style="text-align: center;">→ Letter f)</p> <p>In principle, only those cost items that have been approved in the budget and description of the Action are acceptable, although it is possible to remove a budget item or introduce a new one. A Delegation Agreement may have to be amended according to Article 11.</p> |
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| | <p>In all doubtful cases, it is advisable to discuss and, if possible, agree in writing with the Contracting Authority beforehand.</p> <p>→ Letter g)</p> <p>The Organisation, is fully responsible for the coordination and execution of all activities and have to ensure compliance with local, national and other applicable legislation.</p> <p>"Acceptable Expenditure"</p> <p>Prior to the signature of the agreement, the Contracting Authority needs to understand what are exactly the sub-items or elements included in these budget headings when discussing the budget with the Organisation.</p> <p>During the implementation of the agreement, the Contracting Authority can also request clarifications of the financial reports (in case of inconsistency vis-a-vis the Budget) and/or check the documents relating to these direct costs within the framework of a verification mission.</p> <p>The Organisation should be in a position to justify that acceptable expenditure arises as a direct consequence of the Action and comply with Article 18 of the General Conditions. In case of doubt, the Contracting Authority should control that the qualification of such expenditure as "acceptable" is justified;</p> <p>These discussions/requests should be duly documented in the file.</p> <p>Per diems</p> <p>The per diems (or "<i>daily subsistence allowance –DSA</i>", according to UN terminology) are calculated based on the Organisation's regulations and rules.</p> <p>Eligibility of costs in case of Multi-Donor Actions</p> <p>When an action is a Multi-Donor Action (for the definition of a Multi-Donor Action, see guidance under Article 1), it may occur that the compliance with EU requirements regarding the eligibility of costs of the action would require some degree of traceability, which would make it difficult to conciliate with the nature of a Multi-Donor Action, where funds are fungible by nature (such as EU rules on nationality and origin, restrictions on eligibility of local taxes, geographical scope of the instruments governing the EU funds, etc.).</p> <p>In such case, it is recommended to apply the "<u>notional approach</u>", according to which the relevant authorising officer can reasonably consider that these EU requirements are met as long as the amount contributed by the other donors to the co-financed action is sufficient to pay for the costs which are ineligible under EU rules.</p> |
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| | <p>The purpose of applying such a notional approach is to allow the EU to contribute to multi-donor actions without having to require separate accounting for the EU's specific contribution.</p> |
| <p>18.2 The Organisation may declare its acceptable costs of staff referred to in Article 18(1)(a)(ii)(ii) as actual costs or on the basis of unit costs (hourly or daily or half-daily rates) determined by the Organisation according to its usual cost accounting practices, if the following conditions are complied with:</p> <ul style="list-style-type: none"> a) the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding; b) the unit cost is calculated using the actual staff costs as defined in Article 18(1)(a)(ii)(ii) and as recorded in the Organisation's accounts, excluding any ineligible cost, such as provisions or reserves, or costs included in other cost categories, such as indirect costs. The actual staff costs may be adjusted by the Organisation on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the costs of staff, reasonable and correspond to objective and verifiable information; and c) the unit cost (the hourly, daily or half-daily rate) is calculated using the number of annual productive units (respectively productive hours, days or half-days). For the number of annual productive units, the Organisation may choose one of the following: <ul style="list-style-type: none"> (i) 1720 hours or 215 days or 430 half-days for persons working full time (or corresponding pro-rata for persons not working full time); (ii) the total number of hours or days or half-days worked by the person in the year for the Organisation, defined as the annual workable hours or days or half-days of the person (according to the employment contract, applicable labour agreement or national law) plus overtime worked minus absences (such as sick leave and special leave); (iii) the standard number of annual hours or days or half-days generally applied by the Organisation for its staff in accordance with its usual | <p>Article 18.2:</p> <p>See Guidance on art. 25.3 25.4</p> <p>The conditions are exactly the same as for art. 25.3 25.4, except that the acceptable expenditure is limited to the costs of staff directly assigned to the tasks other than the Budget Implementation Tasks, as identified in Annex I. Indeed, the costs of staff assigned to Budget Implementation Tasks are already covered by the remuneration. Please consider the exceptional regime for field-offices and Management Administrative Structures - please consider COMMISSION DECISION C(2015)3174, from 18.5.2015.</p> <p><u>Staff Costs</u></p> <p>Costs of Staff doing DIA</p> <p>Acceptable expenditure includes all staff implementing Directly Implemented Activities (DIA) wherever they are located. According to Article 18.1.a.ii.ii⁶, acceptable expenditure includes "cost of staff (working under an employment contract or equivalent appointing act) directly assigned to the tasks other than the Budget Implementation Tasks (BIT), as identified in Annex I, which are directly implemented by the Organisation". No extra conditions are set regarding the location from where the staff works on DIA⁷.</p> <p>Costs of Staff doing BIT</p> <p>Costs of staff doing BIT are acceptable only for staff directly assigned to a Dedicated Structure or Field Office (where the EC requires or agrees on using or setting one up).</p> <p>In all other cases (i.e. staff doing BIT working in permanent structures, as Head-Quarters (HQ) or regional offices⁸) these costs are covered by the Remuneration.</p> <p>Costs of Hybrid staff doing both BIT and DIA</p> |

⁶ Article 25.1.a.ii.ii in the case of Pillar Assessed Grants.

⁷ Management of the Project is not BIT. The terminology used by the Organisations to name its staff, does not necessarily imply BIT or DIA. As such, a Project Manager, or an Assistant Manager, would normally be implementing DIA.

⁸ Regional offices are branch offices in charge of the coordination/administration of a particular geographical area, generally reporting back to the HQ. They can, or not, be located in the country of implementation of the action. If the regional office is located in one of the countries where the action is implemented (or nearby) the Field Office could be hosted in the same premises. In such case the costs related to the Field Office will be determined on the basis of apportionment of costs.

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| <p>cost accounting practices. This number must be at least 90% of the standard annual workable hours or days or half-days.</p> <p>For the purposes of points (ii) and (iii), the annual workable hours or days or half-days mean the period during which the staff must be working, at the Organisation's disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation;</p> <p>d) the number of actual units (hours or days or half-days) declared by the Organisation is necessary for the implementation of the Action and is identifiable and verifiable.</p> | <p>In a Dedicated Structure or Field Office, where all activities performed are considered to be DIA, there is no need to discuss the percentage dedicated to BIT or to DIA, all staff may be considered acceptable expenditure, as long as they comply with the acceptability requirements stated in the General Conditions.</p> <p>In case of staff not working in a Field Office or a Dedicated Structure, it can happen that one person is in charge of both some DIA and some BIT. Considering the different treatment of costs of staff performing the two types of tasks, it is important to have in place a system to define the time allocated to one type and the other type of activities. Such system could be timesheets or other time-recording system, employment (or equivalent) contract (or job description) stipulating precise assignment to the different tasks and the proportion of the time that will be dedicated to each category.</p> <p>Where none of these options is current practice or feasible in the Organisation, the proportion of the time to be spent on each type of activity (BIT or DIA) has to be agreed before signature of the Agreement and reflected in Annex I, Description of the Action. Costs of staff will be acceptable only for the part corresponding to DIA (they will be obtained by applying the proportion agreed, which will not be challenged at posteriori).</p> <p>Unit costs for staff</p> <p>Costs of staff may be declared based on real⁹ costs or calculated on the basis of unit costs based on the Organisation's usual accounting practices. Adequate record and documentation must be kept by the Organisation to prove its compliance with the conditions set out by the Commission Decision authorising the use of reimbursement of staff costs on the basis of unit costs (C(2015)350). Upon request of the Organisation, this compliance can be assessed and approved ex ante by the Commission in accordance with the above Decision. In such a case, the unit costs applied could not be challenged ex post.</p> <p><u>Other issues</u></p> <p>Office-related costs in HQ and other permanent offices</p> <p>Infrastructure costs in HQ and other permanent offices are covered by the remuneration. If there is an agreed derogation to have a dedicated structure located within HQ or other permanent offices, the part of the infrastructure costs not covered by the portion attributed to the Dedicated Structure is covered by the remuneration.</p> |
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⁹ Actual or real cost is the value the item represents in the Organisation's accounts.

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| | <p>Interpretation of "Indicated"</p> <p>PAGODA Article 18.1.f¹⁰ requires that acceptable expenditure is "indicated under one of the categories of costs in the estimated budget in Annex III, distinguishing between the estimated costs of BIT and the estimated costs of other tasks, if any;" The interpretation that shall be given to "indicated under" is "covered by one of the sub-headings indicated in the estimated budget".</p> |
| <p>18.3. The Organisation shall keep adequate records and documentation to prove that the cost accounting practices used comply with the conditions set out in Article 18.2.</p> <p>When the Commission approves the Organisation's cost accounting practices, costs of staff declared by the Organisation in application of those practices shall not be verified or challenged ex-post, provided that the practices actually used comply with those approved by the Commission and that the Organisation did not conceal any information for the purpose of their approval.</p> | <p>Article 18.3:</p> <p>See Guidance on Article 25.4.</p> |
| <p>Remuneration under Delegation Agreements</p> <p>18.4 The remuneration of the Organisation and the Sub-delegatees, by the Contracting Authority for the implementation of the Action shall be the percentage of the final amount of accepted expenditure of the Action to be reimbursed by the Contracting Authority, as specified in Article 3.2 of the Special Conditions. The remuneration shall not exceed 7% of the final amount of accepted expenditure of the Action to be reimbursed by the Contracting Authority.</p> | <p>Article 18.4:</p> <p>Due to the nature of UN's operations, it is expected that all of the Actions carried out under the EC-UN FAFA are considered "hybrid cases".</p> |
| <p>18.5 Subject to the above, for comparable Actions and for Multi-Donor Actions the amount claimed as remuneration shall not, in percentage terms, be higher than for other comparable contributions.</p> | |
| <p>18.6 The conditions stated in Article 18.1 do not apply to the remuneration of the Organisation or the Sub-delegatees. The remuneration does not need to be supported by accounting documents.</p> | |
| <p>Inacceptable expenditure</p> <p>18.7 The following expenditure is not acceptable in addition to any other expenditure not fulfilling the conditions set out in Article 18.1:</p> <ul style="list-style-type: none"> a) return on capital; b) debts and debt service charges; c) provisions for losses, debts or potential future liabilities; d) banking charges for the transfers from the Contracting Authority; e) deductible value added tax; f) costs of purchase of land or buildings, except where justified and necessary | |

¹⁰ Article 25.1.f in case of Pillar Assessed grants.

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| <p>for the implementation of the Action and according to the conditions specified in the Special Conditions; For EU External Actions, the ownership shall be transferred in accordance with Article 9, at the latest at the end of the Action;</p> <p>g) costs incurred during the suspension of the implementation of the Agreement except the minimum costs agreed on in accordance with Article 12.8 and 12.11;</p> <p>h) contributions in kind. The cost of staff assigned to the Action and actually incurred by the Organisation is not a contribution in kind and may be declared as acceptable expenditure if it complies with the conditions set out in Article 18.1;</p> <p>i) any cost incurred by the Organisation for the management of EU funds in excess of the percentage of the remuneration agreed in Article 3.2 of the Special Conditions.</p> | |
| <p align="center">Article 19: Payments</p> | |
| <p>19.1 Payment procedures shall be as follows:</p> <p>a) the Contracting Authority shall provide a first pre-financing instalment as set out in Article 4 of the Special Conditions within 30 days of receiving this Agreement signed by both Parties;</p> <p>b) for each further pre-financing instalment the Organisation shall submit a payment request and a progress report in accordance with Article 4 of the Special Conditions, excluding not authorised contingencies, 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;</p> <p>c) in line with the deadlines set out in Article 3.8, the Organisation shall submit a payment request for the balance together with the final report. The amount of the balance shall be determined following approval of the request for payment of the balance and of the final report;</p> <p>d) the Contracting Authority shall pay the further pre-financing instalments and the balance within 90 days of receiving a payment request accompanied by a progress or final report, unless the payment or the time limit for payment was suspended according to Article 12.1 to 12.5.</p> | <p>Article 19.1:</p> <p>The Organisation may submit a request for further pre-financing payment, when the part of the expenditure actually committed which is financed by the Contracting Authority is more than 70 % of the immediately preceding instalment (and 100% of previous instalments if any). In this case, the following reporting period starts anew from the end date of the period covered by this payment request.</p> <p>The Framework Agreements foresee specific provisions for each Organisation. Please check them. For Actions under EC-UN FAFA, due its specific nature, the minimum threshold of pre-financing is 80%. For the other Organisations, this threshold can be from 0 to 100%.</p> <p>For the purpose of calculating the % used of previous pre-financing, conversion into Euros (if necessary) shall be made using the rate of exchange at which the Contracting Authority's contribution was recorded in the Organisation's accounts, unless otherwise provided for in the Special Conditions.</p> <p>The same approach will be used for clearing purposes.</p> <p>In order for the Commission to determine if the threshold has been met, the Organisation should inform the Commission (preferably. stated in the reports) of the rate of exchange at which the EU payments (received originally in Euro) were converted into the accounting currency of the Organisation</p> |

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| | At the end of the Action, the last reporting period shall be also converted into Euros (if necessary) at the same exchange rate at which the Contracting Authority's contribution was recorded in the Organisation's account. |
| 19.2 | <p>Payment requests shall be accompanied by narrative and financial reports presented in accordance with Article 3. Requests for pre-financing payments shall be drafted in Euro. Unless otherwise agreed in the Special Conditions, the payment request for the balance shall be submitted in the accounting currency of the Organisation for the Action. Except for the first pre-financing instalment, the payments shall be made upon approval of the payment request accompanied by a progress or final report. The final amount shall be established in line with Article 20. If the balance is negative, the payment of the balance takes the form of recovery.</p> <p>Rules of conversion for instalments and final payment:</p> <p>The Organisations will request payment of further instalments of pre-financing in EUR (the amount of pre-financing must be the one specified in the SC). The request of payment of the balance can be expressed in USD (for the amount of the balance of the action) or in EUR. In case of Single Donor, the amount of the balance of the action is equal to the amount due to the Organisation. In case of a Multi-donor action no percentage shall be applied to the amounts of acceptable costs (and the principle of priority of consumption applies). In these cases it makes more sense to receive a request of payment in EUR (for an amount equal to the balance indicated in the SC).</p> <p>The calculation to check the threshold for the release of further instalments of pre-financing shall be done in the currency of reporting.</p> <p>A step by step exercise aiming at explaining the rules of conversion (currency of the Organisation/EUR) in three different situations is included as Annex. The excel sheet related to the step by step displays the results of the exercise but can also be used as support tool to perform the calculations in a real DA.</p> |
| 19.3 | Approval of the payment requests 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. |
| 19.4 | <p>The Contracting Authority shall make payments in Euro into the bank account referred to in the financial identification form in Annex IV.</p> <p>If the currency of the payment request for the balance is not the Euro, the Contracting Authority shall convert into Euro the amount of the balance reported at the daily rate published in the Official Journal of the European Union applicable on the day when the payment order, or if the balance is negative (surplus of amounts already paid over the EU final contribution) the recovery order, is issued by the Contracting Authority. Where no daily Euro exchange rate is published in the Official Journal of the European Union for the currency in question, the monthly or daily accounting rate established by the Contracting Authority and published on its website shall be used.</p> <p>Article 19.4:</p> <p><u>In the case of an UN Organisation</u>, after the end of the implementation period, the Organisation shall submit the final narrative and financial report (deadlines and content are prescribed in the contribution-specific agreements). The final financial report shall present acceptable expenditure in the Organisation's accounting currency and include information on the rates at which EU's instalments were converted, where applicable.</p> <p>Where the final acceptable expenditure attributable to the European Union contribution is greater than the sum of all pre-financing instalments provided, the Organisation is entitled to request a final payment ("balance"). The amount of balance should be specified in the accounting currency of the Organisation (e.g. USD) and shall represent the amount needed to balance the "income" (i.e. all pre-financing payments received from the EU) and eligible expenditure attributable to the EU (up to the amount of EU contribution denominated in the Art. 3.1 special conditions). The EU is obliged to provide payments in Euro, hence the final amount due to the Organisation will be converted to Euro at the daily rate published in the Official Journal of the European Union applicable on the day when the payment order is</p> |

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| | <p>issued by the Contracting Authority.</p> <ul style="list-style-type: none"> - When the “balance” is negative (for instance: there is a surplus of amounts already paid over the EU final contribution, the Organisation will specify the amount of surplus balance in its accounting currency in its final report. In the pre-information letter the amount to be recovered will be indicated in the currency of the Organisation. The letter will specify that the exchange rate to convert the amount into EUR will be established in accordance with the provisions of art 19.4 (i.e. using the daily rate published in the Official Journal on the day of encoding the RO in CRIS/ABAC). <p>Once the Commission has made its analysis of the final report it will issue a pre-information note (= advice of recovery) with the estimated amount in Euro. The Organisation shall either confirm that amount or revert with an updated amount representing the Euro equivalent of the residual balance established by using the Organisation's Operational Rate of Exchange in force at the time when the Organisation responds to the Commission’s pre-information note. The Organisation is encouraged to respond to the pre-information note (i.e. give its agreement or provide an updated amount in Euro) as early as possible in the calendar month in order to avoid exchange rate changes when issuing the debit note (Organisation's Operational Rate of Exchange changes monthly).</p> <p>Based on the sum fixed in the Recovery Order the Commission will then issue in Euro the debit note to the Organisation for the same amount.</p> <p><u>In the case of a non-UN Organisation,</u> the explanation presented above applies <i>mutatis mutandis</i>.</p> <p>For the purposes of this article, the day on which the payment order is issued by the Contracting Authority is to be understood as the day on which the request for payment and corresponding report are encoded in CRIS ("ENCOD visa in CRIS").</p> |
| <p>Late payment interest</p> <p>19.5 In case of late payment of the amounts stated in Article 4 of the Special Conditions the following conditions apply:</p> <ul style="list-style-type: none"> a) on expiry of the time limits for payments specified in Article 19.1, if the Organisation is not an EU Member State, it shall receive interest on late payment based on the rate applied by the European Central Bank for its main refinancing operations in Euros (Reference Rate), increased by three and a half percentage points. 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; b) the suspension of the time limit for payment or of payments by the Contracting Authority in accordance with Article 12 shall not be considered | <p>Both, public law bodies and private law bodies with a public service mission, are eligible for indirect management according to the FR, and this because of their close dependency from the state in terms of financing, management supervision or corporate governance.</p> <ul style="list-style-type: none"> • Therefore, if the fulfilment of this dependency criterion allows for the favourable <i>indirect management</i> conditions, it also has to be considered with regard to the issue of late payment interest. Therefore, <u>no late payment interest should be due from the Commission to such bodies</u>. This is the understanding to be given to Articles 19.5 and 26.5 of PAGoDA. • Regarding financial guarantees, Art. 58. 1. c.) vi) of the FR foresees explicitly that private law bodies with a public service mission have to provide <u>adequate financial guarantees</u>. However, the adequate financial guarantees in the sense of Art 58 of the FR do not have to be bank guarantees. It refers to the financial situation and capacity of the relevant body. |

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| <p>as late payment;</p> <p>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;</p> <p>d) by way of exception to point (c), when the interest calculated in accordance with this provision is lower than or equal to EUR 200, the Contracting Authority shall pay such interest to the Organisation only upon request from the Organisation submitted within two months of it receiving late payment;</p> <p>e) by way of exception to point (c), when the Contracting Authority is not the European Commission, and the European Commission does not make the payments, the Organisation shall be entitled to late payment interest upon its request submitted within two months of it receiving late payment;</p> <p>f) the interest shall not be treated as an income for the purpose of determining the final amount of the EU contribution within the meaning of Article 20.</p> | |
| <p align="center">Article 20: Final amount of the EU contribution</p> | |
| <p>20.1 The Contracting Authority shall determine the final amount of the EU contribution when approving the Organisation's final report. The Contracting Authority shall then determine the balance:</p> <p>a) to be paid to the Organisation in accordance with Article 19 where the final amount of the EU contribution is higher than the total amounts already paid to the Organisation; or</p> <p>b) to be recovered from the Organisation in accordance with Article 15 where the final amount of the EU contribution is lower than the total amounts already paid to the Organisation.</p> | <p>Article 20.1:</p> <p>For the purpose of calculating the EU contribution, the final amount will be obtained by adding the expenses reported in each progress report, converted in Euros (if necessary) at the exchange rate at which the Contracting Authority's contribution was recorded in the Organisation's accounts.</p> |
| <p>20.2 The final amount shall be the lower of the following two amounts:</p> <p>a) the sum of the acceptable expenditure approved by the Contracting Authority and of the remuneration, after any reduction in accordance with article 20.3;</p> <p>b) the maximum EU contribution referred to in Article 3.1 of the Special Conditions.</p> | <p>At the end of the implementation period of the delegation agreement, the Commission will release the final payment under the assumption that the acceptable expenditure that is first incurred is the EU one.</p> <p>Therefore, as far as there are enough acceptable costs to cover the EU contribution and there is assurance by the implementing entity that not acceptable costs are covered by other donors' contribution (notional approach), the final payment shall be released without applying any virtual percentage.</p> <p>In case the amounts incurred are less than the EU contribution, an amount equal to the outstanding not incurred amount shall be recovered.</p> <p>Surplus and profit of the action will only be considered where the end of the implementation period of the delegation agreement coincides with the end of the action. In such cases the relevant agreements between donors will apply.</p> <p>In case no such agreement has been established the surplus is redistributed among the</p> |

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| | | different donors pro-rata (DEVCO Companion 3.1.2.2). |
| 20.3 | 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 an obligation under the Agreement, such as the obligations on access stated in Article 17, the Contracting Authority may, after allowing the Organisation to submit its observations, reduce the EU contribution in proportion to the seriousness of the above mentioned situations. If there is a disagreement between the Organisation and the Contracting Authority on the reduction, the Organisation may refer the matter to the responsible director in the European Commission. | |
| Article 21: Sub-delegation (Only applicable to EU External Actions) | | |
| 21.1 | 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 1.7 of the Special Conditions, the Organisation shall ask prior written approval of the Contracting Authority once they are identified. | See the definition of Sub-delegation in Article 1 of the General Conditions. Sub-delegation is conceived of as just a mere possibility. It is for the Organisation in charge of the implementation of the Action (and therefore fully responsible for the co-ordination and execution of the contracted activities) to determine whether a given third party would be a "Sub-delegatee" or a "Grant Beneficiary" or "Contractor" in the context of a given Agreement, provided that the Organisation was positively assessed regarding the pillar of sub-delegation. This shall be explained in Annex I. <u>The auditors or verifiers (as applicable) shall not contest that attribution.</u> |
| 21.2 | The Sub-delegatee may not further sub-delegate the activities delegated to it by the Organisation. The costs incurred by the Sub-delegatees are eligible under the same conditions as those of the Organisation. | |
| 21.3 | 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 in the view of the Organisation 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, in the view of the Organisation, the appropriate operational and financial capacity; b) the Sub-delegatee has been positively assessed ex-ante by the European Commission to work in indirect management, or it has been positively assessed ex-ante by the Organisation which carried out a pillar assessment equivalent to the one performed on the Organisation, in line with its Regulations and Rules. Where approved in the pillar assessment performed on the Organisation, the Organisation may sub-delegate imposing rules, ex-ante approvals, ex-post checks or a combination of remedial measures on | Article 21.3.b: The last sentence tries to clarify that when the pillar Sub-delegation in the pillar assessment is positive, it is understood that the Organisation carries out pillar assessments equivalent to the one performed by the Commission, and there is no need to check case by case such equivalence. "EU Member States Bodies" refers to EU Member State Agencies which covers the EU Member States' Development Agencies, EU Member States' development banks and financial institutions. "Financial guarantees" refers to the financial situation and capacity of the respective Sub-delegatee. It does not entail bank guarantees. Label of partners under Indirect Management Please note that an Organisation entrusted with tasks under Indirect Management |

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| <p>the Sub-delegatee which provide guarantees equivalent to those applied by the Organisation;</p> <p>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;</p> <p>d) the Organisation entrusts to the Sub-delegatee a part of the Action described in Annex I provided that this part includes Budget Implementation Tasks.</p> | <p>relies on its procedures to implement actions with different categories of implementing partners (in particular other donors, partner countries or NGOs). In most cases the Organisation's typology for the selection procedures of these partners and the respective contractual relationship do not match the categories as assessed in the EU Pillar Assessments (in particular grant or sub-delegation). Furthermore, experience shows that comparable implementation modalities were assessed under the grants pillar for some organisations while for others they were assessed under the sub-delegation or financial instruments pillar.</p> <p>It is understood that the pillar assessment foreseen in article 61 of the EU Financial Regulation aims at determining whether the systems, rules and procedures of the Organisation guarantee a level of protection of the financial interests of the Union equivalent to that of the Commission. As such, for as long as the Organisation uses systems that have been positively assessed, the Organisation will decide in accordance with its rules and procedures on the most appropriate contractual relationship between itself and the prospective partner, and the categorisation by the Commission of a particular contractual relationship is irrelevant.</p> <p>Furthermore for the selection of implementing partners, the Organisations are also free to choose their implementing partners (i.e. they do not have to launch a call for proposals or other competitive procedure) where the European Commission could either provide a grant to that partner for the specific action by way of a direct award (e.g. grant to a partner country or where the specific requirements of an action justify the selection of a specific entity) or where the European Commission could choose to work with this partner in indirect management.</p> <p>For all purposes, unless otherwise foreseen in the Special Conditions of a Delegation Agreement (i.e. where the Organisation chooses to treat its partners as sub-delegatees), implementing partners will be treated as grant beneficiaries of the Organisation.</p> <p>The internal classification of implementing partners by the Organisation is also not relevant for verifications, nor shall a verification mission challenge it.</p> |
| <p>21.4 The Organisation undertakes to ensure that Sub-delegatees carry out the activities entrusted to them for the implementation of the Action and that the provisions laid down in Articles: 2.2, 2.3, 2.6 to 2.8-General obligations, 4-Liability, 5-Conflict of interest, 6-Confidentiality, 7-Data protection, 8-Communication and Visibility, 9-Ownership, right to use and transfer of results and equipment, 10-Evaluation and monitoring of the Action, 16-Accounts and archiving, 17-Access and financial checks, 22-Ex-post publication of Contractors and Grant Beneficiaries, and 23-Contracting and Central Exclusion Database apply mutatis mutandis to Sub-delegatees.</p> | |
| <p>21.5 Unless otherwise specified in the Special Conditions, where the Organisation and a Sub-delegatee have both concluded framework agreements with the European Commission only the framework agreement of the Organisation shall</p> | |

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| <p>apply for the purpose of this Agreement. Notwithstanding the foregoing, where a Sub-delegatee has agreed on arrangements for verifications as part of a framework agreement such arrangements shall continue to apply.</p> | |
| <p align="center">Article 22: Ex-post publication of information on Contractors and Grant Beneficiaries</p> | |
| <p>22.1 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 NUTS¹¹ 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 security and in particular the protection of personal data.</p> | <p>Article 22.1:</p> <p>The obligation to publish all Grants (regardless of the amount) and procurement contracts exceeding 15.000 € stems directly from the Financial Regulation (Art. 60 (2) (e), 35 (2), Articles 21 and 137 (2) RAP). In Multi-donor Actions, Article 22.3 applies and the Organisation may publish according to its own rules.</p> |
| <p>22.2 The Organisation shall provide to the European Commission the address of the internet site where this information can be found and shall authorise the publication of such address on the European Commission's internet site.</p> | |
| <p>22.3 If the Action is a Multi-Donor Action in the field of the EU External Actions, the publication of information on Contractors and Grant Beneficiaries shall follow the rules of the Organisation.</p> | <p>For the EU Budget, the right to publish according to Organisation's rules stems from Art. 4.9 Common Implementing Regulation (CIR) and applies to Actions funded by the legal instruments covered by the CIR.</p> |
| <p align="center">Article 23: Contracting and Central Exclusion Database</p> | |
| <p>Contracting</p> | |
| <p>23.1 The Procurement Contracts 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, riders to existing contracts and contracts concerning final audits and evaluation may be signed.</p> | |
| <p>23.2 Procedures to award contracts, as referred to in Article 23.1, may have been initiated and contracts may be signed by the Organisation before the start of the Implementation Period.</p> | |
| <p>23.3 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.</p> | |
| <p>23.4 The Organisation shall adopt reasonable measures, in accordance with its own</p> | |

¹¹ Nomenclature of Territorial Units for Statistics, available at: <http://ec.europa.eu/eurostat/ramon>.

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| <p>Regulations and Rules, 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 the Organisation becomes aware that these persons:</p> <ul style="list-style-type: none"> 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 interest. | |
| <p>Central Exclusion Database</p> <p>23.5 The Organisation shall inform the European Commission if, in relation to the implementation of the Action, it has found that a third party is in one of the situations referred to in Article 23.4 (c). The information shall be transmitted using the ad-hoc template¹², which shall be sent to the European Commission with an indication of the duration of the exclusion, if any, decided on the basis of the judgement which is being notified. If available to the Organisation, a 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 European Commission shall introduce this information in the Central Exclusion Database. The Organisation shall inform the European Commission when it becomes aware that 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 European Commission and may be included in the Central Exclusion Database. These requirements cease upon end of the Implementation Period.</p> | <p>Article 23.5:</p> <p>The obligation ends at the end date of the Implementation Period of the Agreement.</p> |

¹² Annex C8f at DEVCO Companion published at: <http://ec.europa.eu/europeaid/companion>

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| 23.6 | Without prejudice to the power of the European Commission to exclude an entity from future procurement contracts and Grants financed by the EU, the Organisation may impose financial penalties on Contractors and Grant Beneficiaries according to its own Regulations and Rules ensuring, where applicable, the right of defence of the Contractor or Grant Beneficiary. | |
| 23.7 | 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 European Commission as referred in Article 5.6 of the Special Conditions ¹³ 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 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). | |
| 23.8 | In the event of failure to comply with Articles 23.1 to 23.4, the Contracting Authority may declare the related costs ineligible for funding by the EU. | |

¹³ The Organisation shall be allowed to have direct access to the Central exclusion database through a liaison point when the Organisation certifies to the Contracting Authority 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).

PART III: Additional provisions applicable only to PA Grants

| Text of the Article | Interpretation/ Guidelines on application |
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| Article 24: Affiliated Entities | |
| <p>24.1 Where the Special Conditions contain a provision on any Affiliated Entity, costs incurred by such entity will be eligible under the same conditions as those applicable to the Organisation, provided that it satisfies the same conditions under Article 25-Eligible Costs as apply to the Organisation, and that the Organisation ensures that the Contracting Authority and the European Commission where it is not the Contracting Authority, OLAF, the European Court of Auditors and any authorised representatives may exercise their rights under Article 17 also towards the Affiliated Entity.</p> | <p>Article 24.1:</p> <p>Only the Organisation and Co-Beneficiaries are Parties to the PA Grant Agreement.</p> <p>Their Affiliated Entities are neither beneficiaries of the Action nor Parties to the PA Grant Agreement. However, they participate in the design and in the implementation of the Action and the costs they incur (including those incurred for implementation contracts and financial support to third Parties) may be eligible, provided they comply with all the relevant rules already applicable to the Organisation under the PA Grant Agreement. Affiliated Entities must satisfy the same eligibility criteria as the Organisation and Co-Beneficiaries.</p> <p>Only entities having a structural link with the Organisation or a Co-Beneficiary, in particular a legal or capital link, may be considered as Affiliated Entities. For further information on the notion of Affiliated Entities please consult section 6.1.2 of the Practical Guide.</p> <p>Any default or negligence on the part of an Affiliated Entity will be imputed on the Organisation (if the entity is affiliated to the Organisation) or the Co-Beneficiary it is affiliated to. If an Affiliated Entity is unable to perform its activities due to Force Majeure this will be considered as a Force Majeure event affecting the Organisation/Co-Beneficiary.</p> |
| <p>24.2 The Organisation shall ensure that Articles 2-General obligations, 4-Liability towards third Parties, 5-Conflict of interest, 6-Confidentiality, 7-Data protection, 8-Communication and visibility, 9-Ownership, right to use results and transfer of equipment, 10 – Evaluation and monitoring of the Action, 16-Accounts and archiving, 28-No profit and 29-Contracting and financial support to third Parties, are also applicable to the Affiliated Entity.</p> | <p>Article 24.2:</p> <p>This means that Affiliated Entities have to comply with the same rules as the Organisation when implementing the Action. The omission of some articles is only due to the fact that Affiliated Entities do not become Parties to the PA Grant Agreement.</p> |
| Article 25: Eligible costs under PA Grant Agreements | |
| <p>25.1 The eligible direct costs of the Action are costs which meet all the following criteria:</p> <p>a) they are necessary for the implementation of the Action, directly linked to</p> | <p>Article 25.1:</p> <p>"Direct Costs"</p> |

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| <p>its implementation, and arising as a direct consequence of its implementation;</p> <p>b) they fall within one of the following categories:</p> <ul style="list-style-type: none"> (i) costs of staff (working under an employment contract or equivalent appointing act) directly assigned to the Action; These shall correspond to gross salaries including social security charges and other remuneration-related costs provided that they are in line with the usual remuneration practices of the Organisation, and excluding any other cost such as indirect costs, provisions or reserves and bonuses; The costs of natural persons seconded by a third party to the Organisation against payment or working under a contract with the Organisation other than an employment contract may be assimilated to such costs of staff, if the following conditions are fulfilled: <ul style="list-style-type: none"> i. the natural person works under the instructions of the Organisation and, unless otherwise agreed with the Organisation, in the premises of the Organisation; ii. the result of the work belongs to the Organisation; and iii. the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the Organisation; (ii) travel and subsistence costs for staff and other persons directly assigned to the Action, provided that they are in line with the usual practices of the Organisation on travel; (iii) depreciation costs, rental costs or leasing costs for equipment (new or used) and assets in proportion to the duration of Action and the rate of actual use for the Action, provided that the equipment or asset has been purchased by the Organisation in accordance with Article 29.1 and is written off in accordance with the usual accounting practices of the Organisation; (iv) For EU External Actions, the full purchase costs of equipment (new or used) and assets may be eligible, provided that they are specifically purchased by the Organisation for the purposes of the Action in accordance with Article 29.1 and that ownership is transferred at the end of the Action in accordance with Article 9; (v) costs of consumables and supplies specifically purchased for the purposes of the Action, provided that they are purchased by the Organisation in accordance with Article 29.1 and, for EU External | <p>For further explanations on the regime of Direct Costs, please refer to the interpretation of "Acceptable Expenditure" in Article 18.</p> <p>Eligible costs are costs actually incurred by the Organisation which meet all the eligibility criteria at the same time, and do not fall under the category of ineligible costs in Article 25.7. Furthermore, they must be in line with the specifications included in the Call for Proposals (if any), which may provide for specific instructions and/or limitations to the general rules set in the General Conditions (if appropriate, specific clauses will also be included in the Special Conditions).</p> <p>For further explanations on the regime for costs, please refer to the interpretation of Article 18.2 under the heading "<u>Staff Costs</u>"</p> <p>→ Letter a):</p> <p>It is important to pay particular attention to explain which specific resources and related costs are needed for the implementation of the Action, in order to justify their link with the Action (activities, results and objectives) and therefore their funding. Costs charged for items that were not necessary for the project purposes are a frequent source of cost ineligibility. This can be done in the description of the Action, and more specifically with relation to the budget.</p> <p>→ Letter b):</p> <p>Article 25.1 b) lists some categories of direct eligible costs that may be eligible subject to specific conditions, notwithstanding the general criteria set out in Article 25.1.</p> <p>The eligibility of costs is also determined by compliance with the procurement rules set out in Article 29. If the Organisation/Beneficiaries or the Affiliated Entities of the Organisation do not follow these rules, the Contracting Authority may not approve the costs incurred and may reduce the final amount of the EU contribution accordingly.</p> <p>Please note that the lack of documentation in tendering procedures, i.e. insufficient evidence that the procurement process managed by the Beneficiaries conforms to the requirements of the legal framework, is one of the most recurrent sources of ineligibility of costs</p> <p>"Works contracts" or "Purchase of works" are not listed in the cost eligibility criteria but they are eligible as in article 18.</p> <p>The PAGoDA does not refer to "works" specifically under a PA Grant because the applicable cost eligibility conditions depend on how the Organisation will account for the works. In most cases, works are capitalised, thus treated as part of the assets and depreciated.</p> |
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| <p>Actions, that ownership of remaining major supplies is transferred at the end of the Action in accordance with Article 9;</p> <p>(vi) costs entailed by service contracts specifically awarded by the Organisation for the purposes of the Action, provided that they are purchased by the Organisation in accordance with Article 29.1;</p> <p>(vii) costs of services necessary to meet specific requirements of the Contracting Authority (translation and reproduction of reports, evaluation specific to the Action and, where exceptionally required, audits), provided that the corresponding services are purchased by the Organisation in accordance with Article 29.1;</p> <p>(viii) costs of financial support to third Parties, provided that the conditions referred to in Articles 29.3, 29.5 and 29.6 are respected;</p> <p>(ix) duties, taxes and charges, including VAT, paid as part of the direct costs referred to above and not recoverable by the Organisation, unless otherwise provided in the Special Conditions;</p> <p>c) they are actually incurred by the Organisation, i.e. they represent real expenditure definitely and genuinely borne by the Organisation. They are reasonable, justified and comply with the principle of Sound Financial Management;</p> <p>d) they are incurred during the Implementation Period:</p> <p style="padding-left: 40px;">(i) Costs of financial support to third Parties are eligible if the supported activities are implemented during the Implementation Period;</p> <p style="padding-left: 40px;">(ii) Costs of services, works and supplies are eligible if the services, works and supplies are delivered during the Implementation Period</p> <p style="padding-left: 40px;">An exception is made for costs relating to final reports, which may be incurred after the Implementation Period;</p> <p>e) they are identifiable and verifiable pursuant to Article 17, in particular they are:</p> <p style="padding-left: 40px;">(i) recorded in the accounting records of the Organisation and determined according to the usual accounting practices of the Organisation;</p> <p style="padding-left: 40px;">(ii) backed by effective supporting evidence (originals, as the case may be in electronic form);</p> <p>f) they are indicated under one of the categories of costs in the estimated</p> | <p>Please consider in (i):</p> <p>Staff costs are eligible provided that the staff are essential to the implementation of the Action and are mentioned in the project proposal.</p> <p>The eligible costs are constituted by gross salaries or wages in respect of the actual time devoted to the project and include income taxes, social security etc., and other statutory costs included in the remuneration, provided they are recorded and reported in line with standard Human Resources policy of the Organisation and can be proved by supporting documents of the Organisation (or Affiliated Entity).</p> <p>For example, medical insurance, repatriation, relocation, visa costs, housing allowance, salary adjustments, other benefits etc. may only be eligible if they respect all applicable legislation, constitute a standard practice of the Organisation and are actually paid.</p> <p>Staff costs may therefore include contributions for pension, health insurance and unemployment insurance schemes (including loss of employment indemnities or terminal emoluments) arising from national law, collective labour agreement or the employment contract (or equivalent appointing act), or the Rules and Regulations of the Organisation.</p> <p>They should be traceable to supporting schedules (number and names of staff, part-time / full time indication), to payroll records (e.g. salary slips), and to Human Resources records (e.g. employment contracts).</p> <p>A pro-rata system based on estimations cannot be used to justify direct costs, since such a system would not represent real costs (but only estimation). For example it may be accepted that a country director works 20% on a PA Grant Agreement if supported by timesheets or any other evidence, justifying that he actually worked those hours or days on this Action. The time worked and the costs linked to it represent closely the reality. However, it cannot be accepted that a country director's working time is divided equally on a pro-rata basis on 5 different Actions, based on the assumption that he spends equal time on all projects - because such an assumption does not necessarily reflect reality.</p> <p><u>HQ staff</u></p> <p>Location of staff <i>as such</i> is not a criterion.</p> <p>As regards HQ-based professionals, with due consideration to the description and the functional Organisation of the Action and of the Organisation, they may be charged as direct costs in the following circumstances:</p> <ul style="list-style-type: none"> ▪ they relate to the achievement of the Action's operational results and have accordingly been identified as an operational activity in the description of the Action; ▪ they cover the actual involvement of HQ staff in the implementation of the Action |
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| <p>budget in Annex III;</p> <p>g) they comply with the applicable tax and social legislation taking into account the Organisation's privileges and immunities.</p> | <p>(e.g. specific monitoring missions, needs assessment, technical assistance etc.). This means that a simple % is not acceptable, a specific pro-rata related, for instance, to the actual days/months dedicated to the Action;</p> <ul style="list-style-type: none"> ▪ they must be well justified in the framework of the Action and accepted by the Contracting Authority. <p><u>Consultants (v. Employees)</u></p> <p>As a general rule, tasks performed by consultants, experts and/or other service providers (e.g. accountants, lawyers, translators, external IT staff, etc...) are to be considered as resulting from implementation contracts (Article 29.1 and 29.2). Consequently, the Organisation must award the contract to the tender offering best value for money, that is to say, to the tender offering the best price/quality ratio, while taking care to avoid any conflict of interests. These costs are thus not considered as "staff costs" but as other costs/services.</p> <p><u>Specific case: "in-house consultants":</u></p> <p>In house/<i>intra muros</i> consultants are natural persons working on the basis of a service contract as opposed to employees hired on the basis of a labour contract. They join an Organisation project team and deliver 'external services'. The costs arising from these in-house consultants are in principle to be considered as costs relevant to implementing contracts.</p> <p>SPECIAL CASE: The Organisation may alternatively declare the above eligible costs of staff, on the basis of unit costs (hourly or daily or half-daily rates) determined by the Organisation according to its usual cost accounting practices (refer to Article 25.2 and 25.3).</p> <p>Please consider in (ii):</p> <p>Where required for the implementation of the Action and in line with the general eligibility principles of Article 25.1, travel and subsistence costs of any person taking part in the Action are eligible, including staff of the Organisation, Co-Beneficiaries, Associates, Affiliated Entities and the Final Beneficiary(ies).</p> <p>Similarly, costs of travel and subsistence of persons whose involvement in the implementation of the Action is not based on a formal assignment to the Action through an act but whose participation in the Action is crucial, in particular participation of high level officials, may be considered as a direct eligible cost if such participation is provided for in the description of the Action and the related costs are in line with Article 25 General Conditions and indicated in the Budget of the Action.</p> <p>Per diems should be traceable to supporting schedules (number and names of staff, number of times the per diem was paid, per diem rates and countries concerned) and the Organisation's</p> |
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| | <p>records (accounting, payroll, Human Resources).</p> <p>There may be different rates even within the same country, depending for instance on the profile of the person receiving the per diems or, in any case, according to the rules and procedures of the Organisation. Therefore, a student accommodated in a hostel would possibly receive a lower compensation than a person who is supposed to be accommodated in a hotel.</p> <p>In any event, the maximum eligible per diem rates, may not exceed those normally borne by the Organisation.</p> <p>Please consider in (iii):</p> <p>Durable equipment is usually defined as equipment that can be used over its estimated economic useful life of more than 1 year and has a residual economic value after minimal use.</p> <p>When the Organisation's own equipment (proof of property and payment may be requested under verification) is provided for an Action, its depreciation cost could be accepted as direct.</p> <p>These basic conditions should, at least, have been considered:</p> <ul style="list-style-type: none"> ▪ the use is more effective than the rental or purchase of new equipment; ▪ the costs are not higher than the corresponding costs on the local market; ▪ the equipment is in good conditions and suitable for the proper implementation of the Action; ▪ it does not imply double-financing or profit for the Organisation. The equipment must not have been paid entirely by the EU in a previous project or by any other donor. Depreciation is never eligible when the equipment is a contribution in kind; ▪ the value of the equipment must have a price-tag entered in the Beneficiary's Organisation's accounting system; ▪ the costs that can be eligible as direct costs (with special attention to the direct link with the implementation of the Action). <p>Only the costs relating to the unexpired depreciation period and to the implementation period of the Action can be charged. Once fully depreciated, no costs can be charged or reimbursed, other than running costs.</p> <p>For external Actions, purchase costs for equipment (new or used) specifically bought for the purposes of the Action, may be eligible provided that ownership is transferred at the end of the Action as where so required in Article 9.</p> <p>Please consider in (viii):</p> <p>As a general rule Beneficiaries of EU funds have to apply for tax (including VAT) exemption whenever possible.</p> |
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| | <p>This clause refers to indirect taxes such as VAT and customs/import duties and not to direct taxes such as the income tax of staff working on the project, which are part of the gross salary. The rules on taxes apply to Affiliated Entities, as well as to the Beneficiaries.</p> <p>Charging of VAT or taxes is a frequent source of cost ineligibility; therefore particular attention has to be paid to understanding the correct treatment of taxes.</p> <p>When duties, taxes and charges are eligible, they may be treated as any other cost, and may be included in the relevant budget heading.</p> <p>Note that VAT is not eligible where it is paid by a public body (i.e. a body governed by public law) of an EU Member State in relation to activities it carries out as a public authority of the same State. These activities are strictly limited to the exercise of sovereign powers or prerogatives of an EU Member State (for instance police, justice and public domain management). Therefore, VAT is usually eligible on activities such as training, capacity building, technical assistance, policy support etc.</p> <p>Specific rules stemming from applicable regulations and Basic Acts may apply, but the Contracting Authority in this case shall provide such information in the Call for Proposals or directly to the Organisation. The same information should be reflected in the Special Conditions.</p> <p style="text-align: center;">→ Letter c):</p> <p>Particular attention shall be paid to explain how costs are calculated and budgeted. More specifically, a clear explanation shall be given for those costs that are relevant or not easily justifiable because, for instance, they are especially expensive (compared to other similar items) and/or relating to quantity purchases.</p> <p>The explanation should to be provided at proposal stage in the budget, and/or as appropriate in the reports to understand their relationship with the results/activities of the Action.</p> <p>This is especially important in the case of simplified cost options under article 25.2 where for each corresponding budget item or heading, the text must:</p> <ul style="list-style-type: none"> ▪ describe the information and methods used to establish the amounts of unit costs, lump sums and/or flat-rates; ▪ explain the formulas for the calculation of the final eligible amount; ▪ identify the Beneficiaries Organisation or Co-Beneficiary who will use the simplified cost option (in case of Affiliated Entities, the relevant Organisation/Co-Beneficiary should be specified first), in order to verify the maximum amount per each Beneficiary, i.e. Organisation or Co-Beneficiary, which includes if applicable |
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| | <p>simplified cost options of its Affiliated Entity(ies).</p> <p>→ Letters c) and d):</p> <p>Costs have to be related to and generated by activities carried out within the implementation period of the Action (as defined in Article 2 of the Special Conditions) and in accordance with the PA Grant Agreement.</p> <p>To be considered eligible, costs must be actually incurred by the Organisation, and must have generated an obligation to be paid directly by the entity which is party to the PA Grant Agreement with the Contracting Authority (i.e. the Organisation and Co-Beneficiaries).</p> <p>Costs incurred by Affiliated Entities which are identified in the Special Conditions will also be accepted as eligible. In this case, the Affiliated Entities concerned have to abide by the same rules applicable to the Beneficiaries Organisation under the PA Grant Agreement with regard to the eligibility of costs and the rights of checks and audit/ verification by the Commission, OLAF and the Court of Auditors.</p> <p>The Organisation is responsible for monitoring the correct implementation of the Action and for verifying and consolidating the information that will be provided to the Contracting Authority; therefore the Organisation should also make sure that the conditions for the eligibility of costs are met, through appropriate supervision of the Co-Beneficiaries and the Affiliated Entities, and appropriate internal arrangements.</p> <p>It is worth reminding that costs that might have been deemed eligible at a first glance in the reports may be declared ineligible following a verification carried out according to Article 17.</p> <p>→ Letter e)</p> <p>All the costs incurred – corresponding to the entire budget of the Action and not only to the EU contribution – must be recorded in the accounts of the Organisation or, as the case may be, of the Affiliated Entities. The supporting documents (tenders, orders, vouchers, invoices, receipts etc.) must exist, be available for inspection and accurately reflect the recorded costs. See also Article 16 for more details.</p> <p>The Organisation is responsible for verifying and consolidating the information that will be provided to the Contracting Authority; therefore it should as well make sure that the conditions for the eligibility of costs are met, through appropriate supervision of the other Co-Beneficiaries and Affiliated Entities and appropriate internal arrangements.</p> <p>It is strongly advisable for the Organisation to keep (electronic) copies of all relevant documents and accounts and to carry out ex-ante and -where applicable based on its risk assessment processes - ongoing intermittent checks to ensure that supporting and accounting documents</p> |
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| | <p>are available, correct, and duly filed and recorded.</p> <p>The Organisation bears the ultimate financial responsibility for the entire Action and must reimburse to the Contracting Authority any cost declared ineligible (unless the reimbursement relates exclusively to a Co-Beneficiary who has also been pillar-assessed, see Article 30.2 g).</p> <p>The "accounting standards applicable to the Beneficiaries" refer to the rules to which the Beneficiaries or Affiliated Entities are subject to by law. If the concerned Beneficiary or Affiliated Entity is not governed by any national accounting rules, this condition simply does not apply.</p> <p>→ Letter f)</p> <p>In principle, only those cost items that have been approved in the budget and description of the Action are eligible, although it is possible to remove a budget item or introduce a new one. A PA Grant Agreement may have to be amended according to Article 11.</p> <p>In all doubtful cases, it is advisable to discuss and, if possible, agree in writing with the Contracting Authority beforehand.</p> <p>→ Letter g)</p> <p>The Organisation, Co-Beneficiaries and the Affiliated Entities are fully responsible for the coordination and execution of all activities and have to ensure compliance with local, national and other applicable legislation.</p> <p>They must respect their applicable rules, procedures and policies.</p> <p>Please consider the COMMISSION DECISION C(2015)3174, from 18.5.2015, on Field-office costs and Management Administrative structures.</p> <p>For further explanations on this regime, please refer to the interpretation of Article 18.2 under the heading "Costs for Field Offices, Dedicated Structures and Staff Costs under the PAGOda template".</p> <p>Interpretation of "Indicated"</p> <p>For further explanations on the interpretation of "indicated costs" under one of the categories of costs in the estimated budget in Annex III, please refer to the corresponding interpretation in Article 18.</p> |
| <u>Simplified cost options</u> | Article 25.2: |

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| <p>25.2 In accordance with the detailed provisions in Annex III, eligible costs may also be constituted by any or a combination of unit costs, lump sums and flat-rate financing.</p> <p>The methods used by the Organisation to determine unit costs, lump sums or flat-rates shall be clearly described and substantiated in Annex III and shall ensure compliance with the no profit rule (see Article 28) and shall avoid double funding of costs. The information used can be based on the Organisation's historical and/or actual accounting and cost accounting data or on external information where available and appropriate.</p> <p>Costs declared under simplified cost options shall satisfy the eligibility criteria set out in Article 25.1. They do not need to be backed by accounting or supporting documents, save those necessary to demonstrate the fulfillment of the conditions for reimbursement established in Annex I and III. These costs may not include ineligible costs as referred to in Article 25.7 or costs already declared under another cost item or heading of the budget of this Agreement. The amounts or rates of unit costs, lump sums or flat-rates set out in Annex III may not be amended unilaterally and may not be challenged by ex-post verifications.</p> <p>The total amount of financing that may be awarded on the basis of simplified cost options may not exceed EUR 60.000, unless otherwise provided for in the Special Conditions.</p> <p>If a verification reveals that the methods used by the Organisation to determine unit costs, lump sums or flat-rates are not compliant with the conditions established in this Agreement and, therefore an undue payment has been made, the Contracting Authority shall be entitled to recover proportionately up to the amount of the unit costs, lump sums or flat-rate financing.</p> | <p>Simplified cost options may take the form of:</p> <ul style="list-style-type: none"> ▪ unit costs: these cover all or certain specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage) and are expressed in <u>amounts per unit</u>. <i>Example: unit cost per working month for personnel costs based on internal policies and average (payroll) costs; unit costs for small local transportation or other expenses in rural areas (often in expense categories with many small value items and/or with poor documentation), per diems¹⁴ etc.;</i> ▪ lump sums: these cover in <u>global terms</u> all or certain specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage). <i>Example: global cost for the Organisation of an opening event, global cost for the production of information videos etc.</i> ▪ flat-rate financing: this covers specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage) and are expressed as <u>a percentage</u> of other eligible costs. <i>Example: local office costs and related expenses (maintenance, security, a shared car etc.) charged as a percentage of staff costs, indirect costs, etc.</i> <p>Simplified cost options can apply to one or more of the direct cost headings of the budget, or to sub-cost headings or to specific cost items within these cost headings.</p> <p>The Organisation can propose simplified cost options at proposal stage. The Contracting Authority will decide whether such costs can be accepted during the contracting phase on the basis of the Budget submitted.</p> <p>As a general rule, the total amount of financing on the basis of simplified cost options that can be authorised by the Contracting Authority cannot exceed EUR 60 000 per each beneficiary (i.e. per Organisation or Co-Beneficiary) (including simplified cost options proposed by its own Affiliated Entities). More particularly:</p> <ul style="list-style-type: none"> ▪ the threshold of EUR 60 000 does not necessarily apply to the entire Grant amount. The Contracting Authority may also authorise simplified forms of Grants for only one or several categories of eligible costs up to EUR 60 000; ▪ the threshold of EUR 60 000 corresponds to the amount awarded in the form of reimbursement of unit costs, lump sums or flat-rate financing; |
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¹⁴Per diems are not considered as a simplified cost option for the purposes of Union financing when a Beneficiary the Organisation reimburses a fixed amount to its staff in accordance with its staff rules and requests for the reimbursement of that amount in the Action Budget. Such per diems are considered actual costs.

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| | <ul style="list-style-type: none"> ▪ In case of multi-beneficiary Grants, the threshold of EUR 60 000 refers to the amount awarded per Beneficiary. In the case of multi-beneficiary Grants, the Contracting Authority can award Grants or part of Grants in simplified forms exceeding EUR 60 000, provided that the amount per Beneficiary is equal to or less than EUR 60 000; ▪ The Financial Regulation provides for flat-rate financing of indirect costs on the basis of a rate up to 7% of the total eligible direct costs. • The threshold of EUR 60 000 are not to be considered within the eligible indirect costs on the basis of a 7% or lower flat-rate applied to total eligible direct costs. Same applies for the unit costs for staff under Article 25.3 which are authorised by COMMISSION DECISION C(2015)350 of 30.1.2015 and for the field-offices and the reimbursement of field-costs based on a simplified allocation methods, authorized by the COMMISSION DECISION C(2015) 3174, of 18.5.2015; ▪ The threshold of EUR 60 000 should not be interpreted as a final ceiling for lump sums, unit costs or flat-rate financing. Higher amounts can be accepted <u>but must be authorized by a Commission decision</u>. <p>Once simplified cost amounts (as specified in the Action Budget) have been assessed and approved by the Contracting Authority such costs will no longer be subject to a detailed ex post verification of actual underlying cost data. Hence, Auditors will not be required to check supporting documents to verify the actual costs incurred but they must focus on a correct application of the formulas for the calculation of the cost based on related inputs and relevant quantitative and qualitative information. Nevertheless, the Organisation must keep all underlying data and records relating to actual costs for inspection by the Court of Auditors and/or the European Commission or anti-fraud service as set out in Article 16 and 17.</p> <p>If a verification/audit reveals that the calculation methods used by the Organisation, Co-Beneficiary(ies) or its Affiliated entity(ies) to determine unit costs, lump sums or flat-rates are not in line with relevant conditions or factual information (e.g. the generating events have not occurred), the Contracting Authority may establish such costs as not eligible and recover up to the amount of the simplified cost options used.</p> <p>It is important not to get confused between what the Beneficiaries Organisation/Co-Beneficiaries themselves can claim to be reimbursed in the form of simplified cost options (EUR 60 000 per each Beneficiary including its Affiliated Entities) and the financial support (Articles 29.3 to 29.8) that they may give (EUR 60 000 per third party (recipient)). In fact, when a Beneficiary pays Financial Support to a third party, even on the basis of a "global amount" (which indeed can be assimilated to simplified costs), for the Beneficiary vis-à-vis the Contracting Authority this is just like any other actual cost incurred.</p> <p>There is absolutely no relationship between the two amounts, especially in terms of maximum</p> |
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| | <p>thresholds.</p> <p>Please consider the COMMISSION DECISION C(2015)3174, from 18.5.2015, on Field-office costs.</p> |
| <p>25.3 The Organisation may declare its eligible costs of staff referred to in Article 25.1 (b)(i) as actual costs or, in addition to the simplified cost options referred to in Article 25.2, on the basis of unit costs (hourly or daily or half-daily rates) determined by the Organisation according to its usual cost accounting practices, if the following conditions are complied with:</p> <ul style="list-style-type: none"> a) the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding; b) the unit cost is calculated using the actual staff costs as defined in Article 25.1(b)(i) and as recorded in the Organisation's accounts, excluding any ineligible cost, such as provisions or reserves, or costs included in other cost categories, such as indirect costs. The actual staff costs may be adjusted by the Organisation on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the costs of staff, reasonable and correspond to objective and verifiable information; and c) the unit cost (the hourly, daily or half-daily rate) is calculated using the number of annual productive units (respectively productive hours, days or half-days). <p>For the number of annual productive units, the Organisation may choose one of the following:</p> <ul style="list-style-type: none"> (i) 1720 hours or 215 days or 430 half-days for persons working full time (or corresponding pro-rata for persons not working full time); (ii) the total number of hours or days or half-days worked by the person in the year for the Organisation, defined as the annual workable hours or days or half-days of the person (according to the employment contract, applicable labour agreement or national law) plus overtime worked minus absences (such as sick leave and special leave); (iii) the standard number of annual hours or days or half-days generally applied by the Organisation for its staff in accordance with its usual cost accounting practices. This number must be at least 90% of the standard annual workable hours or days or half-days. | <p>Article 25.3:</p> <p>This possibility is authorised by COMMISSION DECISION C(2015)350 of 30.1.2015, and is it additional to the Simplified Cost Options covered by Article 25.2.</p> <p>In a different way from the Simplified Cost Options covered by Article 25.2, for costs reimbursed on the basis of "unit costs of staff" with reference to Article 25.3 and 25.4, these "unit costs" are not defined in the PA Grant Agreement. In fact, it is a different system that is rather based on the methodology (i.e. the standard accounting practices of the Organisation or of the Co-beneficiaries/Affiliated Entities) used to determine the "unit costs of staff". This means that the "unit costs of staff" may vary periodically (usually yearly), since it is standard practice that the methodology provides for a revision/update of the "unit costs" according to the more recent actual data or other adjustment factors.</p> <p>If staff costs are reimbursed on the basis of unit costs the "amounts of the unit costs" to be declared by the Organisation have to be calculated in accordance with the method set out in Article 25.3. The staff costs to be declared have to correspond to the amount obtained by multiplying the "unit costs" (rates per hour, day or half a day) by the number of "actual units" (number of actual hours, days or half-days worked by staff on the Action).</p> <p>If the contract (or applicable collective labour agreement or national working time legislation) does not make it possible to determine the annual workable units, option c) (ii) cannot be used. If there is no applicable reference for the standard annual workable units, option c) (ii) cannot be used.</p> <p>The standard annual workable hours or days are the time to be spent by the employees according to the contract or rules (e.g. 40 hours a week or 5 days a week).</p> <p>The threshold of 90% is needed since the Organisation may include or exclude certain activities (e.g. general training, general meetings etc.) when calculating the 'standard annual productive hours', if this is in line with its usual cost accounting practices. The number of hours is calculated on the basis of the 'standard annual productive hours' generally applied by the Organisation for its personnel, in accordance with its usual cost accounting practices. As a simple example: it is not acceptable to calculate the unit cost using 4 days per week as 'standard annual productive days', when the 'standard annual workable days' per week are 5, since it would result in an excessively high unit cost.</p> <p><i>Example (calculation of standard annual workable hours):</i></p> |

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| <p>For the purposes of points (ii) and (iii), the annual workable hours or days or half-days mean the period during which the staff must be working, at the Organisation's disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation;</p> <p>d) the number of actual units (hours or days or half-days) declared by the Organisation is necessary for the implementation of the Action and is identifiable and verifiable.</p> | <p><i>Full-time researchers hired by Research Centre Z have an employment contract that states that they must work eight hours per day, from Monday to Friday. National legislation provides for 22 working days of annual leave, plus eight days of public holidays. The applicable collective labour agreement adds three extra days of annual leave.</i></p> <p><i>The standard annual workable hours for Research Centre Z would therefore be:</i></p> <p><i>365 days — 104 days (Saturdays and Sundays) — 22 days (annual leave) — 8 days (public holidays) — 3 days (collective agreement) = 228 days * 8 hours per day = 1 824 hours</i></p> <p><i>Standard annual productive hours for Research Centre Z:</i></p> <p><i>Research Centre Z would like to use its usual cost accounting practices to calculate the hourly rates for EU Actions. It calculates the number of standard annual productive hours as follows:</i></p> <p><i>Annual working days = 228</i></p> <p><i>- average annual sick leave (days) = 3</i></p> <p><i>- days of general training = 4</i></p> <p><i>- other unproductive activities (days) = 9</i></p> <p><i>è productive days = 212</i></p> <p><i>Multiplied by 8 working hours per day</i></p> <p><i>è standard annual productive hours = 1 696</i></p> <p><i>This number of standard annual productive hours must then be compared with 90% of standard annual workable hours (in this example 1 824).</i></p> <p><i>90% of 1824 = 1 642</i></p> <p><i>1 696 hours (usual cost accounting practice) > 1 642 hours (90% annual workable hours)</i></p> <p><i>Research Centre Z may apply its number of standard annual productive hours (i.e. 1 696) to EU Actions since the number is higher than 90% of annual workable hours.</i></p> <p><i>If its number of standard annual hours is lower than 1 642 (e.g. 20 days of other unproductive tasks instead of 9 è 1 608 annual productive hours), Research Centre Z must apply 1 642 hours (90% of the annual workable hours).</i></p> <p><i>If its number of standard annual productive hours is higher than 90% (in our example it is 93%: 1 696/1 824), Research Centre Z must use this number (and not 90% of annual workable hours).</i></p> |
| <p>25.4. The Organisation shall keep adequate records and documentation to prove that the cost accounting practices used comply with the conditions set out in Article 25.3. When the Commission approves the Organisation's cost accounting practices, costs of staff declared by the Organisation in application of those practices shall not be verified or challenged ex-post, provided that the practices actually used comply with those approved by the Commission and that the Organisation did not conceal any information for the purpose of their approval.</p> | <p>Article 25.4:</p> <p>For eligible costs reimbursed on the basis of "unit costs of staff", in addition to the number of actual units employed for the Action, the eligibility of the costs depends on the compliance of the standard accounting practices of the Organisation with the conditions set out in Articles 25.3 (i.e. the methodology used to determine the "unit costs" and its correct implementation).</p> |
| <p><u>Indirect costs under PA Grant Agreements</u></p> <p>25.5 The indirect costs for the Action are those eligible costs which cannot be</p> | <p>Article 25.5:</p> <p>Please consider the COMMISSION DECISION C(2015)3174, from 18.5.2015, on Field-</p> |

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| <p>identified as specific costs directly linked to the implementation of the Action and cannot be booked to it directly. However, they are incurred by the Organisation in connection with the eligible direct costs for the Action. They may not include ineligible costs as referred to in Article 25.7 or costs already declared under another cost item or heading of the estimated budget.</p> | <p>office costs.</p> |
| <p>25.6 Eligible indirect costs shall be declared on the basis of the flat-rate laid down in Article 3.3 of the Special Conditions, which shall not exceed 7% of the total eligible direct costs. Flat-rate financing in respect of indirect costs does not need to be supported by accounting documents. This amount shall not be taken into account with regard to the maximum amount of simplified cost options.</p> | <p>Article 25.6:</p> <p>The flat-rate figure not exceeding 7% is calculated as a percentage of the final amount of the direct eligible costs to be paid/reimbursed by the Contracting Authority. The exact amount due to an Organisation will only be known after the direct eligible costs have been established by the Contracting Authority on the basis of the final report.</p> <p>Please consider the COMMISSION DECISION C(2015)3174, from 18.5.2015, on Field-office costs.</p> |
| <p><u>Ineligible costs</u></p> <p>25.7 The following costs are ineligible in addition to any other costs not fulfilling the conditions set out in Article 25:</p> <ul style="list-style-type: none"> a) return on capital; b) debts and debt service charges; c) provisions for losses, debts or potential future liabilities; d) banking charges for the transfers from the Contracting Authority; e) deductible value added tax; f) costs of purchase of land or buildings, except where justified and necessary for the implementation of the Action and according to the conditions specified in the Special Conditions; For EU External Actions, the ownership shall be transferred in accordance with Article 9, at the latest at the end of the Action; g) costs incurred during the suspension of the implementation of the Agreement, except the minimum costs agreed on in accordance with Article 12.8 and 12.11; h) costs declared by the Organisation under another agreement financed by the European Union budget (including through the European Development Fund); i) contributions in kind. The cost of staff assigned to the Action and actually incurred by the Organisation is not a contribution in kind and may be declared as eligible cost if it complies with the conditions set out in Article 25.1; j) credits to third Parties, unless otherwise specified in the Special Conditions; k) salary costs of the personnel of national administrations, unless | <p>Article 25.7:</p> <p>This article identifies the costs that, even if satisfying the above mentioned criteria, cannot be considered eligible.</p> <p>Salary costs of personnel of national administrations may only be considered as eligible costs to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the Action would not be undertaken. However, EU funding of salary costs corresponding to activities which the public administration had already undertaken before the launching of the Action, is not possible. Indeed, it would generate a profit for the Organisation since these costs are already funded by the budget of the Member State (or the regional or local authorities) in the framework of their normal activities.</p> |

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| <p>otherwise specified in the Special Conditions and only to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the Action were not undertaken;</p> <p>l) any indirect costs in excess of the percentage agreed in Article 3.3 of the Special Conditions.</p> | |
| <p align="center">Article 26: Payments</p> | |
| <p>26.1 Payment procedures shall be as follows:</p> <p>a) the Contracting Authority shall provide a first pre-financing instalment as set out in Article 4.1 of the Special Conditions within 30 days of receiving this Agreement signed by both Parties;</p> <p>b) the Organisation may submit a request for further pre-financing instalment for the following reporting period in accordance with Article 4 of the Special Conditions.</p> <p>For EU External Actions, the following additional provisions shall apply:</p> <p>i) the reporting period is intended as a twelve-month period unless otherwise provided for in the Special Conditions. When the remaining period to the end of the Action is up to 18 months, the reporting period shall cover it entirely;</p> <p>ii) within 60 days following the end of the reporting period, the Organisation shall present an interim report or, if unable to do so, it shall inform the Contracting Authority of the reasons and provide a summary of progress of the Action;</p> <p>iii) if at the end of the reporting period the part of the expenditure actually incurred which is financed by the Contracting Authority is less than 70 % of the previous payments, the further pre-financing payment shall be reduced by the amount corresponding to the difference between the 70 % of the previous pre-financing payments and the part of the expenditure actually incurred which is financed by the Contracting Authority;</p> <p>iv) the Organisation may submit a request for further pre-financing payment before the end of the reporting period, when the part of the expenditure actually incurred which is financed by the Contracting Authority is more than 70 % of the previous payments. In this case, the following reporting period starts anew from the end date of the period covered by this payment request;</p> <p>v) the total sum of pre-financing payments may not exceed 95 % of the amount referred to in Article 3.2 of the Special Conditions, excluding not authorised contingencies;</p> <p>For Actions other than EU External Actions, the additional following</p> | <p>Article 26.1:</p> <p>The agreed pre-financing rate is stated in Article 4.1 of the Special Conditions. The rate of pre-financing must be announced in the call for proposals (if any).</p> <p>The determination of the amount of the pre-financing instalments corresponds to this percentage of the part of the forecast budget for the following reporting period of the Action which is being financed by the Contracting Authority (excluding not authorised contingencies for External Action. The contingency reserve is not considered in the payments until, and unless, approved, as it will not be disbursed if not needed. This means that it should not be budgeted in the requests for pre-financing. Once approved it will be reflected in the relevant budget lines and therefore treated like the other budgeted/eligible costs.)</p> <p>An <u>initial pre-financing payment</u> will be made after the PA Grant Agreement has been signed by both Parties. This payment will cover a % of the Contracting Authority's contribution to budgeted costs for the first year, as stated in Article 4.1 of the Special Conditions.</p> <p><i>Example: The Contracting Authority is contributing 50% of the total eligible costs of a project. The pre-financing rate stated in article 4.1 of the Special Conditions is 80%. The Budget for the first year is EUR 100 000, after deduction of the contingency reserve. The initial pre-financing instalment will be EUR 40 000, which is 80% of EUR 50.000, i.e. of the part of the eligible costs which is financed by the Contracting Authority.</i></p> <p>The <u>further pre-financing instalments</u> are intended to be split among the reporting periods. However they are presented as a single global amount in the Special Conditions, as the actual pre-financing instalments are based on the updated budget forecast for the following reporting period, presented by the Organisation.</p> <p>The Contracting Authority's percentage contribution to the forecast budget usually corresponds to its percentage contribution to the eligible costs as set out in Article 3.2 of the Special Conditions. Note that for Actions where the "accepted cost system" is used, the Contracting Authority's percentage contribution to total "accepted costs" and total "eligible costs" will be different. The adjustment to ensure the co-financing will be done at the end of the Action, with the final payment, according to Article 27 and 28.</p> |

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| <p>provision shall apply:</p> <ul style="list-style-type: none"> vi) if, at the end of the reporting period, the financial report shows that less than 70 % of the previous pre-financing payment have been used to cover costs of the Action, the further pre-financing payment shall be reduced by the amount corresponding to the difference between the 70 % of the previous pre-financing payment and the part actually used; c) at the end of the Implementation Period, the Organisation shall submit a payment request for the balance together with the final report. The amount of the balance shall be determined following approval of the request for payment of the balance and of the final report; d) the Contracting Authority shall pay the further pre-financing instalments and the balance within 90 days of receiving a payment request accompanied by a progress or final report, unless the payment or the time limit for payment was suspended according to Article 12.1 to 12.5. | <p><i>Example: The maximum EU contribution under a particular call is 80% of accepted costs. The total 3-year project budget is EUR 300 000. Indirect taxes, which are accepted but not eligible costs, account for 5% of the total budget - EUR 15 000 – so total eligible costs are EUR 285 000. The EU is contributing EUR 240 000 to the project, which is 80% of total accepted costs but 84.21% of total eligible costs. If for instance, the total second year budget estimate is EUR 112 000, including EUR 4 480 (4%) indirect taxes, which are not an eligible cost. The EU will pay 84.21% of eligible costs i.e. $EUR\ 112\ 000 - EUR\ 4\ 480 = EUR\ 107\ 520 \times 84.21\% = EUR\ 90\ 543$.</i></p> <p><u>EU External Actions</u></p> <p>The Organisation has 60 days following the end of the reporting period to present an interim report (narrative and financial, covering the elapsed reporting period).</p> <p>If at the end of the reporting period eligible costs incurred are less than 70% of the last payment (and 100% of the preceding payments), the further pre-financing payment may not be paid in full, but may be partially paid. If the Organisation presents a payment request, the payment is reduced by the amount corresponding to the difference between the 70% of the last pre-financing payment (and 100% of the preceding payments) and the part of the eligible costs incurred which is financed by the Contracting Authority.</p> <p>For the purposes of the application of the 70% rule, if the currency of reporting is not the Euro, the threshold is calculated in the currency of reporting..</p> <p>Alternatively, the Organisation may present a summary of the progress of the Action, and present a payment request earlier when the 70% threshold is reached (the narrative and financial report have then to cover the elapsed period since the last payment request). The following reporting period starts anew from the end date of the period covered by the payment request.</p> <p><i>Example: An Organisation has received an initial instalment of EUR 96 000 and submits a first interim report stating that EUR 60 000 of this – 62.5 % - has been incurred. The forecast budget for the following period for the second year of the project is EUR 87 000. However, the difference between the 70% threshold – $(EUR\ 96\ 000 \times 70\%) = EUR\ 67\ 200$ and the amount actually incurred - EUR 60 000 – is EUR 7 200. So the second instalment will be reduced by EUR 7 200 to EUR 79 800.</i></p> <p>In case the Organisation submits a full report (narrative and financial) instead of a summary report without requesting any further payment (for example when initial pre-financing was very high while implementation was very slow and a significant under spending occurs), the full report is in principle treated as a summary of the progress of the Action. (A proper payment request according to Article 26, even for EUR 0, would have to be introduced in order to allow the Contracting Authority to approve the costs, but this is neither needed nor advisable as it would involve additional administrative workload on both sides).</p> |
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| | <p>As a general rule, when the remaining period to the end of the Action is less than 18 months, the forecast budget (and the pre-financing payment) will cover that remaining period; the next report will be the final report covering the whole Action.</p> <p>The total sum of pre-financing payments may not exceed 95 % of the amount in Article 3.2 of the Special Conditions, after deduction of non-authorised contingencies. Therefore the pre-financing payments must be limited consequently when approaching the end of the Action.</p> <p>The balance of the final amount of the Grant will only be payable after the end of implementation period, when the final report together with a request for payment has been approved by the Contracting Authority.</p> <p>If total final approved costs are less than originally foreseen and/or the reserve has not been used, the balance to be paid will be less than the amount stated in Article 4 of the Special Conditions, as the Contracting Authority contribution is limited to the percentage of eligible or accepted costs, as stated in Article 3 of the Special Conditions (see also Article 27 and 28).</p> <p>Following a call for proposal, the maximum EU contribution and percentage of eligible or accepted costs financed by the Contracting Authority may never be increased.</p> |
| <p>26.2 Payment requests shall be accompanied by narrative and financial reports presented in accordance with Article 3. Requests for pre-financing payments shall be drafted in Euro. Unless otherwise agreed in the Special Conditions, the payment request for the balance shall be submitted in the accounting currency of the Organisation for the Action. Except for the first pre-financing instalment, the payments shall be made upon approval of the payment request accompanied by a progress or final report. The final amount shall be established in line with Article 27. If the balance is negative, the payment of the balance takes the form of recovery.</p> | <p>Rules of conversion for instalments and final payment:</p> <p>The amount of further instalment of pre-financing can also be requested in currency of the Organisation). The amount requested will very rarely correspond to the amount that will be paid. This is the consequence of the need to translate the forecast budget, normally expressed in USD into EUR (at the daily rate published in the Official Journal on the day of encoding the request of payment). It is not mentioned in the GC that the forecast budget has to be expressed in USD; however it makes sense to request that the forecast budget is expressed in the same currency of the contract and that the conversion is done following the same logic of art.26.4. At this regard, it should be noted that when the Organisation choose reporting in currency, the budget will also have to be expressed in currency (not in EUR).</p> <p>A step by step exercise aiming at explaining the rules of conversion (currency of the Organisation/EUR) in three different situations is included as Annex. The excel sheet related to the step by step displays the results of the exercise but can also be used as support tool to perform the calculations in a real PA grants.</p> |
| <p>26.3 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.</p> | |
| <p>26.4 The Contracting Authority shall make payments in Euro into the bank account referred to in the financial identification form in Annex IV.</p> <p>If the currency of the payment request for the balance is not the Euro, the Contracting Authority shall convert into Euro the amount of balance at the</p> | <p>Article 26.4:</p> <p>For the purposes of this article, the day on which the payment order is issued by the Contracting Authority is to be understood as the day on which the request for payment and corresponding</p> |

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| <p>daily rate published in the Official Journal of the European Union applicable on the day when the payment order, or if the balance is negative (surplus of amounts already paid over the final EU contribution) the recovery order, is recorded by the Contracting Authority. Where no daily Euro exchange rate is published in the Official Journal of the European Union for the currency in question, the monthly or daily accounting rate established by the Contracting Authority and published on its website shall be used.</p> | <p>report are encoded in CRIS ("ENCOD visa in CRIS").</p> <p>In case of unspent funds, in the pre-information letter the amount to be recovered will be indicated in the currency of the Organisation. The letter will specify that the exchange rate to convert the amount into EUR will be established in accordance with the provisions of art 19.4 (i.e. using the daily rate published in the Official Journal on the day of encoding the RO in CRIS/ABAC).</p> |
| <p><u>Late payment interest</u></p> <p>26.5 In case of late payment of the amounts stated in Article 4 of the Special Conditions the following conditions apply:</p> <ul style="list-style-type: none"> a) on expiry of the time limits for payments specified in Article 26.1, if the Organisation is not an EU Member State, it shall receive interest on late payment based on the rate applied by the European Central Bank for its main refinancing operations in Euros (Reference Rate), increased by three and a half percentage points. 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; b) the suspension of the time limit for payment or of payments by the Contracting Authority in accordance with Article 12 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 26.1. Any partial payment shall first cover the interest; d) by way of exception to point (c), when the interest calculated in accordance with this provision is lower than or equal to EUR 200, the Contracting Authority shall pay such interest to the Organisation only upon request from the Organisation submitted within two months of it receiving late payment; e) by way of exception to point (c), when the Contracting Authority is not the European Commission, and the European Commission does not make the payments, the Organisation shall be entitled to late payment interest upon its request submitted within two months of it receiving late payment; f) the interest shall not be treated as an income for the purpose of determining the final amount of the EU contribution within the | <p>Article 26.5:</p> <p>Interest on late payment does not apply neither to Member States nor to agencies of Member States.</p> <p>This Article does not apply if the Coordinator is a European Union Member State, including regional and local government authorities or other public body acting in the name and on behalf of the Member State for the purpose of the Contract.</p> <p>Interest on late payment is paid usually by default by the Commission when it is the Contracting Authority, if it amounts to more than EUR 200. When the Contracting Authority is not the European Commission but a Partner Country (i.e. under indirect management), the Organisation has to submit a claim within two months of receiving late payment. A specific clause is inserted in the Special Conditions.</p> <p>The Organisation makes the calculation and presents the request, and the Contracting Authority at that point will then verify the calculation and pay the appropriate amount. Note that the interest is payable for the time elapsed between the expiry of the payment deadline and the date on which the Contracting Authority's account is debited.</p> |

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| meaning of Article 27. | |
| Article 27: Final amount of the EU contribution | |
| <p>27.1 The Contracting Authority shall determine the final amount of the EU contribution when approving the Organisation's final report. The Contracting Authority shall then determine the balance:</p> <ul style="list-style-type: none"> a) to be paid to the Organisation in accordance with Article 26 where the final amount of the EU contribution is higher than the total amounts already paid to the Organisation; or b) to be recovered from the Organisation in accordance with Article 15 where the final amount of the EU contribution is lower than the total amounts already paid to the Organisation. | <p>Article 27.1:</p> <p>The determination of the final amount of the Grant is based on the final reports approved by the Contracting Authority.</p> <p>The first step to be taken is the validation of these reports and the verification of the compliance with the provisions of the PA Grant Agreement.</p> <p>The final amount of the Grant will depend on the eligible costs approved by the Contracting Authority.</p> <p>The verification of the eligibility of costs is done mainly on the basis of Article 25, but also taking into account other provisions set out in the Call for Proposals, the Special Conditions or other relevant Annexes to the PA Grant Agreement, etc.</p> <p><u>For simplified cost options:</u></p> <ul style="list-style-type: none"> ▪ If applicable, for eligible costs reimbursed on the basis of simplified cost options defined in the PA Grant Agreement (i.e. with reference to Article 25.2), the eligible costs are determined solely on the qualitative and quantitative evidence necessary to verify compliance with the conditions for the payment defined in the PA Grant Agreement (notably the budget, but also the Description of the Action). In the case of partial fulfilment of the conditions, a pro rata may be applied to the final payment in accordance with the effective realisation. ▪ When funding is determined on the basis of unit costs the adjustment is automatic, and is calculated simply by multiplying the unit cost by the number of units consumed or produced. For lump sums or flat-rates, the correction applied may be more difficult to determine. ▪ Therefore, to avoid conflicts and litigation, it is strongly recommended to agree during the contract preparation stage and then to specify clearly in the PA Grant Agreement: <ul style="list-style-type: none"> (i) the conditions for the payment; (ii) how reductions will be applied when only partial fulfilment of these conditions is attained. <p>For costs reimbursed on the basis of unit costs of staff (i.e. with reference to Article 25.3 and 25.4), the "unit costs" are not defined in the Agreement. In addition to the number of actual units employed for the Action, the eligibility of the costs is depending also on the compliance of the accounting practices of the Organisation with the conditions set out in Articles 25.3 and 25.4 (i.e. the methodology used to determine the "unit costs").</p> <p>The review of the narrative report and final financial statement shall occur in a coordinated manner. Reported cost to be considered as eligible should have been incurred for the</p> |

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| | implementation of the Action in line with General Conditions and the Annex I. |
| <p>27.2 Without prejudice to Article 28 the final amount shall be the lower of the following amounts:</p> <ul style="list-style-type: none"> a) the amount obtained by applying the percentage laid down in Article 3.2 of the Special Conditions to the eligible costs of the Action approved by the Contracting Authority; b) the maximum ceiling in Article 3.2 of the Special Conditions in terms of the absolute value. c) the amount obtained after reduction of the EU contribution in accordance with article 27.3. | <p>Article 27.2:</p> <p>The Special Conditions define the EU contribution as a lower of the two: a maximum Grant amount (in absolute terms) that can never be exceeded, and a contribution (in percentage points) to the eligible costs (as well as to the “accepted costs” when the accepted cost system has been introduced in the Guidelines for Applicants and/or in the Special Conditions).</p> <p>The contribution in percentage points stems from the principle of co-financing, which requires that the resources necessary for the implementation of the Action are not entirely provided by the EU. There are, however, situations, where the EU can be the sole funding source under Grant Agreement. The funds from other sources may take the form of:</p> <ul style="list-style-type: none"> ▪ own contribution by the Organisation, the co-Beneficiaries or the Affiliated Entities ▪ income generated by the Action (if relevant an estimate should be provided at proposal stage; it must be confirmed when the request for payment of the balance is submitted) ▪ other donors' contributions. <p>In-kind contributions by other donors or overheads exceeding 7 % are not considered as eligible costs but accepted costs.</p> <p>The Organisation has to declare the co-financing actually provided in the final report, but no evidence is needed (please refer to Article 28.2).</p> <p>The provisional final amount of EU funding is calculated by application of the set percentage of co-financing of eligible costs specified in Article 3.2 of the Special Conditions to the eligible costs declared with the request for payment of the balance and approved by the Contracting Authority.</p> <p>If a clause in the Special Conditions (Article 7) provides for the “Accepted cost system”, the Grant is further limited to a percentage of the total accepted cost of the Action and not only to a percentage of eligible costs (i.e. the smaller of the two values obtained by application of both percentages apply).</p> <p>The maximum amount of the Grant is also always limited to the maximum EU contribution expressed in terms of the absolute value in Article 3.2 of the Special Conditions. If the approved eligible costs exceed the estimated costs as referred to in Article 3.1 of the Special Conditions, the Organisation will have to bear the exceeding costs.</p> <p>If the total final costs are less than originally foreseen, the final payment could be less than the amount stated in Article 4 of the Special Conditions, as the Contracting Authority contribution will be limited to the percentage of eligible costs (and accepted costs if applicable) stated in Article 3.2 of the Special Conditions (see also Article 27.3).</p> |

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| | <p><i>Example: Total budgeted costs are EUR 500 000 of which the Contracting Authority has agreed to contribute to 80% - i.e. EUR 400 000 in absolute value. It is stated in the Special Conditions that a final instalment of EUR 40 000 will be paid as the balance. However, at the end of the Action, total reported expenditure is only EUR 475 000. The maximum EU contribution will be 80% of this, i.e. EUR 380 000.</i></p> <p>In addition, regardless of the costs incurred, the Grant may be reduced by virtue of Article 27.3.</p> <p>Unless otherwise foreseen in the Framework Agreement concluded with the Organisation, the maximum EU contribution and percentage of eligible or accepted costs financed by the Contracting Authority may never be increased.</p> <p>Note that for direct awards, the maximum EU contribution does not have to equal the amount calculated by applying the maximum percentage to the estimated total eligible costs.</p> <p>Example: The total eligible costs of the action are estimated at EUR 10.000.000. The EU intends to contribute up to EUR 2.000.000. In this case, the maximum percentage of the EU contribution does not have to be 20 %. For example, by taking into account that other donors might not provide their initially foreseen contributions, the EU contribution could be max. EUR 2.000.000 and up to 60 % (or even 100 %) of the total eligible costs.</p> <p>This is reflected in footnote 4 in the SC.</p> |
| <p>27.3 Where the Action is not implemented, is not implemented in line with the Agreement, is implemented partially or late, or if the Organisation has breached a substantial obligation under the Agreement, such as the obligations on access stated in Article 17, the Contracting Authority may, after allowing the Organisation to submit its observations (including proposal for remedial measures), reduce the EU contribution in proportion to the seriousness of the above mentioned situations. If there is a disagreement between the Organisation and the Contracting Authority on the reduction, the Organisation may refer the matter to the responsible director in the European Commission.</p> | <p>Article 27.3:</p> <p>It is fundamental to set clear and realistic indicators and results in the initial proposal/Grant Agreement and to subsequently:</p> <ul style="list-style-type: none"> ▪ inform the Contracting Authority immediately about any problems in the implementation of the Action or any delays which might jeopardise the achievement of the results; ▪ make sure to get Contracting Authority's approval before making changes that may affect the basic purpose of the Action, and make sure that these are duly reflected in the amended Grant Agreement (see also Article 11). ▪ <p>Continuous dialogue and pro-active feedback should take place throughout the project's implementation. Such exchanges facilitate a better understanding of the difficulties encountered during the implementation and facilitate prompt decisions on mitigating measures (e.g. possible amendments to agreement/strategy, etc.).</p> |
| Article 28: No Profit | |
| <p>28.1 The EU contribution may not produce a profit in the framework of the Action, unless specified otherwise in Article 7 of the Special Conditions. Profit is defined as a surplus of the receipts over the eligible costs approved</p> | <p>Article 28.1:</p> <p>The final amount of the Contracting Authority's contribution must also take into account the no-</p> |

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| <p>by the Contracting Authority when the request for payment of the balance is made.</p> | <p>profit principle, i.e. the financial contribution is limited to the amount required to balance the receipts and the approved eligible costs of the Action.</p> <p>The application of the no-profit principle is made globally, at Action level (consolidated), and not for each Beneficiary/Affiliated Entity in the event of a multi-Beneficiary Grant Agreement.</p> |
| <p>28.2 The receipts to be taken into account are the consolidated receipts on the date on which the payment request for the balance is made by the Organisation that fall within one of the two following categories:</p> <ol style="list-style-type: none"> income generated by the Action, unless otherwise specified in the Special Conditions; financial contributions specifically assigned by the donors to the financing of the same eligible costs financed by the Agreement and declared by the Organisation as actual costs under the Agreement. Any financial contribution that may be used by the Organisation to cover costs other than those eligible under this Agreement or that are not due to the donor where unused at the end of the Action are not to be considered as a receipt to be taken into account for the purpose of verifying whether the EU contribution produces a profit in the framework of the Action. | <p>Article 28.2:</p> <p>At the time of the request for payment of the balance the Organisation must also declare all the receipts of the Action.</p> <p>The receipts to be taken into account for the purpose of the no-profit rule are the revenue established (revenue collected and recorded in the accounts), or the revenue generated or confirmed (revenue not yet received but for which the generating event has already occurred or for which the Organisation has a commitment or a written confirmation) on the date on which the request for payment of the balance is made. Notably:</p> <ol style="list-style-type: none"> income generated by the Action, (unless the Special Conditions state otherwise, i.e. where the purpose of the Action is to generate an income, see Article 28.4). NB. If revenue is generated by the Action, it is not deducted from the approved eligible costs, but it is considered on the side of receipts for the purposes of the application of the no-profit rule. the financial contributions of others donors which are specifically used to finance the same eligible costs of the Action (see below). <p>Therefore, the following sources are not taken into account for the purposes of the no-profit rule:</p> <ul style="list-style-type: none"> ▪ the Organisation's, Beneficiaries' or Affiliated Entities' own resources, without prejudice to any provision in the Call for Proposal (usually deriving from the Basic Act) requiring a minimum financial contribution from the Beneficiaries; ▪ the revenue generated by the Action after the date of the request for payment of the balance; ▪ financial contributions not specifically assigned by other donors to the financing of the same eligible costs declared as actual costs and financed by the Grant Agreement or which the donors allow for the reassignment to similar Actions or other activities in the case of surplus or non-consumption after the implementation of the initial Action ▪ any interest generated by pre-financing paid to the Organisation as well as any interest paid to the Organisation as a result of late payment of amounts owed by the Contracting Authority ▪ exchange rate gains; ▪ In-kind contributions. <p><u>Organisation or Beneficiaries' own contributions</u></p> |

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| | <p>In the absence of specific provisions imposing a minimum contribution from the Beneficiary's own funds, the Beneficiary retains an interest to look for other types of external financing and to promote any revenue from its operations throughout the implementation period.</p> <p>Therefore, if the Beneficiaries have provided in the forecast budget a certain amount of their own resources in order to balance costs and receipts, and ultimately the revenue generated by the Action or the contributions provided by other donors are more than expected, it is possible to replace the amount of their own resources which have been paid in full, or partially.</p> |
| 28.3 Where the final amount of the EU contribution determined in accordance with the Agreement would result in a profit, it shall be reduced by the percentage of the profit corresponding to the final EU contribution to the eligible costs actually incurred approved by the Contracting Authority. | <p>Article 28.3:</p> <p>When the subsidised Action generates a surplus (profit), the Contracting Authority recovers the surplus pro rata of the EU contribution to the financing of the eligible costs actually incurred approved by the Contracting Authority (thus excluding other eligible costs declared on a Simplified Cost Option basis, including using the usual accounting practices of the Organisation).</p> <p>The amount to be deducted from the Contracting Authority contribution is calculated by applying the actual rate of reimbursement of eligible costs actually incurred to the surplus, as determined at the time of payment of the balance. Therefore, the rate of recovery of profit may be less than the percentage of reimbursement of the eligible costs conventionally fixed. This is also the case when the provisional Grant amount, after applying double ceiling, reaches the maximum contribution in absolute value established in the Special Conditions.</p> |
| 28.4 The provisions in Articles 28.1 to 28.3 shall not apply to: | <p>Article 28.4:</p> <p>The exemptions stated in letter a) and b) of Article 28.4 are only applicable if clearly stated in Article 7 of the Special Conditions.</p> <p>When the no-profit rule does not apply, the Contracting Authority will not check whether there is a profit or not. It will just calculate the final amount of the Grant according to Article 27.</p> |
| <p align="center">Article 29: Contracting and financial support to third Parties</p> | |
| <p>Implementation contracts</p> <p>29.1 Where the implementation of the Action requires the procurement of goods, works or services, the Organisation shall award the Procurement Contracts to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, it shall avoid any conflict of interests. For that purpose the Organisation may apply its procurement rules and procedures if these rules and procedures have been positively assessed by the European Commission.</p> | <p>Article 29.1:</p> <p>This Article does not impose any procedures on the Organisation. This means that the Organisation can use its own procedures to the extent that they ensure compliance with the principles laid down in the first sentence (whether those procedures have been positively assessed or not). This implies that the offers received were all evaluated against objective criteria enabling to measure the quality of the proposals and taking into account the price (with the lowest price receiving the highest score for the price criterion).</p> |

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| | <p>Where the procurement pillar of the Organisation has been positively assessed contracts awarded in line with the Organisation's rules and procedures are deemed compliant with the principles set forth in this Article.</p> <p>Non-compliance with the principles set forth in the first sentence makes the costs of the related contract ineligible (see Article 25.1 b) (v.)) One example would be a difference between the tender with the lowest price or between the market price and the tender to which the contract was awarded not justified by valid criteria</p> <p>In case of a conflict of interest the costs of the related contract would also be ineligible.</p> <p>There are basically two scenarios leading to ineligibility in this context: The situation of a conflict of interests:</p> <ul style="list-style-type: none"> ▪ had an impact on the beneficiary's conduct in the procurement procedure and the contract would have been awarded to a different tenderer in absence of conflict of interest, or ▪ entailed practices likely to distort competition between tenderers, i.e.: <ul style="list-style-type: none"> (i) entering into agreement with other economic operators or (ii) attempting to influence the decision-making process. <p>Note that the mere possibility of a conflict of interest is not sufficient to constitute a breach.</p> |
| <p>29.2 In the field of EU External Actions:</p> <ol style="list-style-type: none"> a) Where the Organisation or another donor provides co-financing to the Action¹⁵, 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. Procedures to award Procurement Contracts may have been initiated and Procurement Contracts may be concluded by the Organisation before the start of the Implementation Period of the Action. b) The Contracting Authority may impose in the Special Conditions additional rules for the award procedures of Procurement Contracts above EUR 60.000 if the Organisation's procurement rules c) and procedures have not been positively assessed by the European Commission. d) Should the Organisation fail to comply with the conditions set out in | <p>Article 29.2:</p> <p>In accordance with Article 29.2 a), the rules of nationality and origin of the Organisation apply in addition to the respective rules laid down in the relevant EU instrument if the Organisation provides co-financing to the Action. If there is no co-financing the Organisation may still use its own rules and procedures (see Article 29.1) except for the rules on nationality/origin.</p> <p>However, in most cases there will be co-financing:</p> <ol style="list-style-type: none"> 1. As a rule and in line with the principle enshrined in Article 125 (3) FR, co-financing should be provided. 2. The co-financing may originate from the Organisation's own resources or from third donors. 3. For the purpose of Article 29.2, it is understood that the Organisation may incur non-eligible costs, which should be considered as part of the co-financing. In such a case, an indication of the existence of these additional costs has to be included in Article 7.1 X of the Special Conditions under the category of "total accepted costs ". Please refer also to |

¹⁵ The requirement of co-financing is deemed to be complied with where the total accepted costs are higher than the total eligible costs.

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| <p>points a) and b), the Contracting Authority may reduce its contribution to the Organisation in accordance with Article 27.3.</p> | <p>the explanations in Article 7.1 SC PAG under the heading "Total Accepted Costs". Total accepted costs and the percentage of co-financing are also treated at the end of the explanation of Article 27.3</p> <p>If a Co-Beneficiary/Affiliated Entity is one of the bodies listed in Article 58 of the FR, the same applies: The rules of the Co-Beneficiary/Affiliated Entity apply in addition to the rules of the applicable EU instrument if co-financing by another donor to the Action is provided. If the Co-Beneficiary/Affiliated Entity is not one of the bodies listed, its rules do not apply.</p> <p>It is sufficient that a donor (be it the Organisation, Co-Beneficiary, an Affiliated Entity or other donor) provides co-financing to any part of the Action.</p> <p>If the Organisation's (or a Co-Beneficiary's/Affiliated Entity's) procurement pillar has not been positively assessed the Contracting Authority may impose additional rules for the implementation of Procurement Contracts only for contracts above EUR 60.000.</p> <p>The nationality rule refers to the nationality of the service providers, suppliers, and contractors. It applies to all service, works, and supply contracts. The rule of nationality does not apply to experts proposed by service providers for service contracts financed by the Grant but it does apply to the service provider itself.</p> <p>In works contracts, the rule of origin applies to all materials, goods, and components to be incorporated or to form part of the permanent works. Goods used for the execution of the contract which are purchased by the contractor and become its property (such as a caterpillar used for the construction of a road) are not subject to the rule of origin.</p> <p>The rule of origin is also applicable to procurement of second-hand items, if any, within the PA Grant Agreement.</p> <p>The rule of origin refers to the origin of goods and equipment. Goods originating in a country shall be those wholly obtained or produced in that country. Goods whose production involves more than one country shall be deemed to originate in the country where they underwent their last substantial transformation.</p> <p>Unlike non-compliance with Article 29.1, non-compliance with Article 29.2 a) or b) does not render the related costs ineligible. However, in accordance with Article 29.2 c) the Contracting Authority may reduce the EU contribution if the Organisation is in breach of Article 29.2 a) or b).</p> <p>The reduction depends of the seriousness of the breach and must be determined in accordance with the principle of proportionality. The reduction does not necessarily correspond to the financial impact of the breach on the Union budget.</p> |
| <p><u>Financial support to third Parties</u></p> | <p>Article 29.3:</p> |

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| <p>29.3 In order to support the achievement of the objectives of the Action, and in particular where the implementation of the Action requires financial support to be given to third Parties, the Organisation may award financial support if so provided by the Special Conditions. The Organisation shall ensure that the Contracting Authority and the European Commission where it is not the Contracting Authority, OLAF, the European Court of Auditors and any authorised representatives may exercise their rights under Article 17 also towards the third Parties awarded financial support.</p> | <p>Financial support is an activity carried out within the PA Grant Agreement, and may be implemented by the Organisation, Co-Beneficiaries and Affiliated Entities, provided that the mandatory conditions stated in this Article 29 are fulfilled.</p> <p>Financial support may be a grant not necessarily following a call for proposals or a financial contribution of a different nature (see further details below). The persons/entities receiving the financial support are the final recipients of the EU funds. This means that it is not limited to sub-granting schemes.</p> <p>Guidelines for applicants of a call for proposals may, as appropriate, restrict the scope of the financial support, for instance setting a lower maximum amount, or targeting only specific categories etc. The Commission will only verify if the distribution of the funds to third parties has been done following the criteria established in the grant proposal by the Organisation.</p> <p>It is essential for the eligibility of financial support, that all these mandatory conditions are strictly defined in the PA Grant Agreement (notably in Annex I), in compliance with the guidelines for applicants (where applicable) and of any conditions or restrictions set out:</p> <ul style="list-style-type: none"> (i) the objectives and results to be obtained with the financial support; (ii) the different types of activities eligible for financial support, on the basis of a fixed list; (iii) the types of persons/entities or categories of persons/entities which may receive financial support; (iv) the criteria for selecting these persons/entities and giving the financial support. If the Organisation's grant pillar has been positively assessed it is sufficient to state that the Organisation will select the recipients in line with their assessed rules and procedures; (v) the criteria for determining the exact amount of financial support for each third party, and (vi) the maximum amount which may be given; (vii) The eligible categories of persons/entities which are not necessarily those eligible under the call for proposals (where relevant) with regards to the Organisation, Co-Beneficiaries and Affiliated Entities: usually the basic acts do not impose any specific nationality rule on recipients of financial support. In fact, it is the guidelines for a specific call for proposals and/or the PA Grant Agreement that will set the relevant criteria, if needed. It may be the case where a nationality restriction is desirable/appropriate to achieve the results, or it may be not; (viii) the modalities through which the financial support is granted (e.g. following a call for proposals, direct award, in line with the Organisation's positively assessed rules and procedures for grants etc.) must also be specified. <p>Even if one of the items above is not "relevant" the point must be mentioned in the description of the Action. For example, small amounts of cash support are given to refugees to support their</p> |
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| | <p>living. In this case the financial support is not linked to specific activities. So, this fact should be mentioned in the description as well to avoid the impression that the aspect was simply overlooked.</p> <p>The financial support may take the form of simplified cost options. For the sake of simplification, it is even advised to agree in the description of the Action on unit or lump sum amounts, together with the criteria for payment of those amounts, rather than on reimbursement of costs, unless justified by the nature of the financial support (e.g. where the financial support targets a specific activity to be implemented by the third party).</p> <p>Since financial support to third Parties is not subject to the same rules as Grants provided by the Contracting Authority, the ceilings for simplified cost options do not apply and there is no need for a Commission decision to authorise recourse to unit or lump sums as financial support. The amounts may be agreed on by the Contracting Authority as part of the description of the Action. The financial support may take the form of "unconditional cash transfer".</p> <p>"Unconditional", means that financial support is given without anything in return, i.e. without any specific result other than helping the final recipients, e.g. support to human right defenders, scholarships to facilitate mobility, allowances to refugees, unemployed, etc. The financial support may even be the primary aim of the Action and represent the core activity per se. It is not an issue provided that the objective of the Action clearly requires this type of financial support to third parties. Cash transfers are allowed provided that the Organisation can prove the payments (for example a paper from the recipient acknowledging receipt of the cash amount), as only verifiable costs are eligible. Note, such evidence does not need to be submitted with reports to the Contracting Authority, but the Organisation (Co-beneficiary or Affiliated-Entity, as relevant) shall keep such records which may need to be disclosed in case of a verification.</p> <p>"Unconditional", does not mean that the conditions for giving financial support are not established in the PA Grant Agreement. This would not be acceptable. The Description of the Action shall contain all the information required above.</p> <p>"Conditional" transfers are also possible (e.g. seed money to a micro-enterprise subject to establishment of favourable working conditions or recruitment of women).</p> <p><u>Selection of third party recipients (award procedures)</u></p> <p>Article 29 does not impose any rules and procedures for the giving of financial support to third Parties. In accordance with the EU Financial Regulation, the selection procedure has to be defined in each PA Grant Agreement individually (in the description of the Action).</p> <p>Unless a relevant call for proposals, if any, foresees establishes otherwise, the Organisation may propose its own rules and procedures to be used. For further information on the notion of financial support to third Parties please consult the section 6.9 of the Practical Guide.</p> |
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| | <p>The third Parties receiving financial support are not subject to the same eligibility criteria as those applicable to the Organisation, Co-Beneficiaries and Affiliated Entities under the call for proposals (where relevant).</p> <p>Similarly, the financial support granted to those third Parties is not subject to the general principles applicable to Grants, and the conditions for calculating the exact amount do not necessarily encompass the no-profit principle (i.e. there may be a case where the no-profit check is appropriate, or it may be not: this has to be specified in the call for proposals and/or the PA Grant Agreement).</p> <p>All of these obligations must be respected. For additional info on financial support to third Parties and on how financial support shall be treated under calls for proposals, please consult section 6.9 of the Practical Guide.</p> |
| 29.4 To the extent relevant, the Organisation shall ensure that the conditions applicable to the Organisation under Articles 5-Conflict of interest, 8-Communication and visibility and 16-Accounts and archiving are also applicable to third Parties awarded financial support. | <p>Article 29.4:</p> <p>On the one hand, where the recipients of financial support implement part of the project and manage the funds in a same similar manner as the Organisation, all those obligations have to be observed. On the other hand, if the support is e.g. provided to refugees, none of the listed obligations need to be observed.</p> |
| 29.5 The maximum amount of financial support shall be specified in Annex I and be limited to EUR 60.000 per each third party, except where one of the main purposes of the Action is to redistribute the EU contribution. | <p>Article 29.5:</p> <p>The ceiling for the financial contribution to third Parties is EUR 60 000 per third party (recipient of financial support) unless the redistribution of the EU contribution is one of the main purposes of the Action. There is no overall ceiling for the total financial support that can be distributed in the course of an Action. There is no need for a derogation to raise the ceiling above EUR 60 000. The Contracting Authority and the Organisation simply have to agree that financial support is one of the main purposes of the Action by leaving the related optional phrase in Art. 7.1. of the Special Conditions in the contract.</p> |
| 29.6 The description of the Action in Annex I shall also define the types of entities eligible for financial support and include a fixed list with the types of activity which may be eligible for financial support. The criteria for the selection of the third party recipients of this financial support, including the criteria for determining its exact amount, shall also be specified. | |
| 29.7 The Contracting Authority shall consider the costs of financial support as ineligible if the financial support is not given by the Organisation in accordance with the conditions referred to in Articles 29.3, 29.5 and 29.6. The Contracting Authority may reduce its contribution to the Organisation if the third party recipient of financial support has substantially breached one of the obligations listed in Article 29.4, or if the third party recipient has not used the funds for the purpose foreseen in its agreement with the Organisation, if any. | <p>Article 29.7:</p> <p><u>Responsibility</u></p> <p>For financial support to third Parties, the Organisation is fully responsible for the implementation of the Action in compliance with the PA Grant Agreement. This does not mean however that the Organisation must recover funds unduly paid to a third party recipient. Nor does it mean that the financial support to third Parties must take the form of reimbursement of certain costs (with associated eligibility conditions). It is possible, but not compulsory.</p> |

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| | <p>It means that if the conditions set out in the PA Grant Agreement for financial support to third Parties are not fulfilled, the corresponding costs incurred by the Organisation will not be eligible (or the Grant may be reduced, depending on the breach).</p> <p><i>Example: The financial support to third Parties is, in accordance with the PA Grant Agreement to be given to local NGOs for teaching activities. They are used by local NGOs for their own promotion. The financial support given by the Organisation is ineligible to be charged to the EU Contribution which was awarded specifically for the teaching activities (regardless of who is at fault and of whether the Organisation decides to recover that money).</i></p> <p>Finally, the Organisation cannot argue that the Action was not properly implemented due to a failure by the recipients to be exempted from its responsibility. If the Action was not properly implemented, the contribution to the Organisation may be reduced.</p> |
| 29.8 In the field of EU External Actions, the Organisation shall provide in its report to the Contracting Authority information on the award and implementation of any financial support given. The report shall demonstrate compliance with the requirements defined in accordance with Article 29.5 and 29.6 1 st sentence and describe the results achieved. | |
| Article 30: Multi-beneficiary agreements | |
| 30.1 Where the Organisation implements the Action together with Co-Beneficiaries, these General Conditions apply to Co-Beneficiaries mutatis mutandis, subject to the provisions of this Article 30. | <p>Article 30.1:</p> <p>As stipulated in Article 30.1, the general conditions apply to Co-Beneficiaries mutatis mutandis which means that Co-Beneficiaries have to comply with them to the same extent as the Organisation.</p> <p>As for the Organisation, nothing in the PA Grant Agreement shall be interpreted as limiting the Organisation's or Co-Beneficiary's privileges and immunities when either is an international Organisation.</p> |
| <p>30.2 The Organisation shall:</p> <ul style="list-style-type: none"> a) monitor that the Action is implemented in accordance with this Agreement and ensure coordination with all Co-Beneficiaries in the implementation of the Action; b) be the intermediary for all communications between the Co-Beneficiaries and the Contracting Authority; c) be responsible for supplying all documents and information to the Contracting Authority which may be required under this Agreement, in particular in relation to the narrative reports and the requests for payment. Where information from the Co-Beneficiaries is required, the Organisation shall be responsible for obtaining, verifying and | <p>Article 30.2:</p> <p>The Organisation is the sole interlocutor for the Contracting Authority. All communication related to the PA Grant Agreement will be exclusively between the Contracting Authority and the Organisation. The Contracting Authority will disburse funds only to the Organisation who will then forward the relevant funds to the Co-Beneficiaries. This is without prejudice to the fact that the Co-Beneficiaries also are Parties to the PA Grant Agreement.</p> <p>Article 30.2 g) Vis-à-vis the Contracting Authority, the financial responsibility for the implementation of the entire Action including the parts implemented by Co-Beneficiaries and Affiliated Entities rests with the Organisation. This means that the Contracting Authority will, where applicable, recover funds only from the Organisation. However, where the recovery is related to funds allocated to a specific Co-Beneficiary and this Co-Beneficiary is also an</p> |

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| <p>consolidating this information before passing it on to the Contracting Authority. Any information given, as well as any request made by the Organisation to the Contracting Authority, shall be deemed to have been given in agreement with all Co-Beneficiaries;</p> <ul style="list-style-type: none"> d) inform the Contracting Authority of any event likely to affect or delay the implementation of the Action; e) inform the Contracting Authority of any change in the legal, financial, technical, Organisational or ownership situation of any of the Co-Beneficiaries, as well as, of any change in the name, address or legal representative of any of the Co-Beneficiaries; f) be responsible in the event of audits, checks, monitoring or evaluations, as described in Articles 10 and 17 for providing all the necessary documents, without prejudice to Article 30.8; g) have full financial responsibility for ensuring that the Action is implemented in accordance with this Agreement. This includes the implementation done by the Co-Beneficiaries. By exception, where a Co-Beneficiary's pillars have been positively assessed by the European Commission and the Organisation can demonstrate that amounts to be recovered under this Agreement only relate to activities that have or should have been implemented by the Co-Beneficiary in accordance with Annex I, the Contracting Authority shall recover these amounts from that Co-Beneficiary.; h) establish the payment requests in accordance with the Agreement; i) be the sole recipient, on behalf of all of the Co-Beneficiaries, of the payments of the Contracting Authority. The Organisation shall ensure that the appropriate payments are then made to the Co-Beneficiaries without unjustified delay; j) not delegate any, or part of, these tasks to the Co-Beneficiaries or other entities; k) where relevant, repay funds to the Contracting Authority in line with Article 15. | <p>Organisation whose pillars have been positively assessed the Contracting Authority will recover directly from that Co-Beneficiary.</p> |
| <p>30.3 The Organisation and the Co-Beneficiaries shall:</p> <ul style="list-style-type: none"> a) carry out the Action jointly taking all necessary and reasonable measures to ensure that the Action is carried out in accordance with the description of the Action in Annex I and the terms and conditions of this Agreement; b) be responsible for complying with any obligation incumbent on them jointly or individually; | |

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| <ul style="list-style-type: none"> c) ensure that the Organisation has or obtains the data needed to draw up the reports, financial statements and other information or documents required by this Agreement and the annexes thereto, as well as, without prejudice to Article 30.8, any information needed in the event of audits, checks, monitoring or evaluations, as described in Articles 10 and 17; d) ensure that all information to be provided and requests made to the Contracting Authority are sent via the Organisation; e) agree upon appropriate internal arrangements for the internal coordination and representation of the Co-Beneficiaries vis-a-vis the Contracting Authority for any matter concerning this Agreement, consistent with the provisions of this Agreement and in compliance with the applicable legislation(s). | |
| <p>30.4 In duly justified cases, the participation of a Co-Beneficiary in this Agreement may be terminated by the Organisation. To this purpose, the Organisation shall communicate to the Contracting Authority the reasons for the termination of its participation and the date on which the termination shall take effect, as well as a proposal on the reallocation of the tasks of the Co-Beneficiary whose participation is terminated, or on its possible replacement. The proposal shall be sent in good time before the termination is due to take effect. If the Contracting Authority agrees, the Agreement shall be amended accordingly in conformity with Article 11. If the Contracting Authority does not agree, either Party may terminate the Agreement in accordance with Article 13.3.</p> | |
| <p>30.5 In duly justified cases, the Contracting Authority may suspend the participation of a Co-Beneficiary in the Agreement for the reasons referred to in Article 12.6 or terminate the participation of a Co-Beneficiary in the Agreement for the reasons referred to in Article 13.1.</p> | |
| <p>30.6 In the case of termination of the participation of a Co-Beneficiary in accordance with Article 30.5, the request for payment for the Co-Beneficiary concerned shall be included in the next payment request following termination communicated by the Organisation.</p> | |
| <p>30.7 The ceiling of EUR 60.000 for simplified cost options set forth under Article 25.2 applies to the Organisation and each Co-Beneficiary individually. Indirect costs shall not be eligible under the Agreement for a Co-Beneficiary who already receives an operating Grant financed from the European Union budget during the period in question. Where the budget of the Action includes a breakdown per Co-Beneficiary and the Organisation, the Organisation and the Co-Beneficiaries are allowed to adjust the budget by transfers between themselves without an amendment to the Agreement.</p> | <p>Article 30.7:</p> <p>Unlike Co-Beneficiaries, who may each claim up to 60.000 € simplified cost options, Affiliated Entities will be seen together with the Organisation or Co-Beneficiary they are affiliated to, i.e. the two together may claim up to 60.000 €.</p> |
| <p>30.8 Unless otherwise specified in the Special Conditions, where the</p> | |

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| <p>Organisation and a Co-Beneficiary have both concluded framework agreements with the European Commission only the framework agreement of the Organisation shall apply for the purpose of this Agreement. Notwithstanding the foregoing, where a Co-Beneficiary has agreed on arrangements for verifications as part of a framework agreement such arrangements shall continue to apply.</p> | |
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PAGoDA Special Conditions - Delegation Agreement

| Text of the Article | Interpretation/ Guidelines on application |
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| Article 1: Purpose | |
| <p>1.1 This Agreement defines the activities entrusted to the Organisation for the implementation of the Action <fill in the title of the programme or project> as described in Annex I (the “Action”) consisting in Budget Implementation Tasks and may also include other tasks clearly identified. This Agreement lays down the rules for implementation, for the payment of the EU contribution, and defines the relations between the Organisation and the Contracting Authority.</p> | |
| <p>1.2 This Agreement consists of these special conditions (the "Special Conditions") and their annexes.</p> | |
| <p>1.3</p> <ul style="list-style-type: none"> a) In the performance of the activities, the Organisation shall apply its own accounting, internal control and audit systems which have been positively assessed in the ex-ante pillars assessment. In case the pillar assessment raised some reservations the Organisation shall comply with the ad hoc measures stated in Article 7.¹⁶ b) The Organisation shall apply specify [its own rules for Grant award procedure, as assessed in the ex-ante pillars assessment] / [the Contracting Authority rules for Grant award procedures] and specify [its own procurement procedures, as assessed in the ex-ante pillars assessment] / [the Contracting Authority rules for procurement procedures]¹⁷. c) The Organisation shall perform the activities to be implemented under the Agreement in accordance with the principles of Sound Financial Management, transparency and non-discrimination, applying its positively assessed Regulations and Rules. d) The Organisation is free to use any Regulations and Rules which have not | <p>Article 1.3:</p> <p>With respect to Article 1.3 b) of the Special Conditions, it is understood that, subject to the positive outcome of the pillar assessment, the Organisation shall use its own rules and procedures for Grant award and procurement.</p> <p>With respect to Article 1.3 d) of the Special Conditions, it is understood that the Organisation applies exclusively its own Regulation and Rules, to the recruitment of its Staff members, irrespective of their tasks or place of assignment. These are not procurement or Grant contracts and as such are not governed by the procurement or Grant pillar assessment. The Contracting Authority cannot impose procedures on the Organisation regarding this matter.</p> |

¹⁶ Conclusions of the pillar assessment should be considered and required measures, if any, should be included in Article 7.

¹⁷ The Organisation shall apply the Contracting Authority rules for Grant and/or procurement procedures when the pillars assessment has so determined.

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| <p>been subject to the ex-ante pillar assessment to the extent that these Regulations and Rules are not in conflict with the provisions of this Agreement.</p> | |
| <p>1.4 The Action [is]/ [is not] a Multi-Donor Action¹⁸.</p> | <p>Article 1.4:</p> <p>“Multi-Donor Action” refers to cases when the funding for the “Action”, i.e. undertaking described in Annex 1 of the Agreement, comes from at least 2 funding sources (for instance the EU and the UN Organisation implementing the Action fund the Action together is sufficient to consider the Action a multi-donor Action) and there is no earmarking of budget items to any specific source of funds.</p> <p>When funds are earmarked, the Action would not consider a “Multi-Donor Action”, but a “parallel co-financing” (i.e. each donor will contribute to specific categories of expenditures).</p> <p>Whenever possible, preference shall be given to projects which are carried out as a Multi-donor Action.</p> |
| <p>1.5 This Agreement is subject to the provisions of <reference to any relevant framework agreement between the European Commission and the Organisation>. ¹⁹</p> | <p>Article 1.5:</p> <p>The Commission has signed the following framework agreements with Organisations within the context of PAGoDA templates:</p> <ol style="list-style-type: none"> 1. Framework Agreement with International Monetary Fund (IMF). The Agreement was signed on 20 May 2015. 2. Framework Agreement with European Bank for Reconstruction and Development (EBRD). The Agreement was signed on 1 June 2015. 3. Framework Agreement with Inter-American Development Bank (IDB). The Agreement was signed on the 10 June 2015. 4. Framework Agreement with International Organisation for Migration (IOM). The Agreement was signed on 12 June 2015. 5. Framework Agreement with the Organisation for Economic Cooperation and Development (OECD). The Agreement was signed on 16 June 2015. 6. Framework Agreement with Council of Europe (CoE). The Agreement was signed on 18 June 2015. |

¹⁸ Multi donor Action is any Action where EU funds are pooled with at least one other donor, including those cases where the Organisation and the EU are the only two donors. Parallel co-financing is not considered Multi-donor Action.

¹⁹ Specify the applicable framework agreement or delete.

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| | <p>7. Framework Agreement with the Agence Française de Développement (AFD), Kreditanstalt für Wiederaufbau (KfW) and Agencia Española de Cooperación Internacional para el Desarrollo (AECID).</p> <p>Aside, the Financial and Administrative Framework Agreement ("FAFA") between the European Union and the United Nations (signed in 2003) which regulates the implementation of EU funds in the context of United Nations-led operations.</p> <p>All the above mentioned framework agreements can be found as Annexes to the DEVCO Companion (Chapter 7). Due to the confidentiality terms agreed with the different Organisations, the framework agreements are for the use of the Commission Services only.</p> <p>For Agreements signed with the UN this Article should include reference to the Financial and Administrative Framework Agreement²⁰.</p> |
| <p>1.6 The Action [is]/ [is not] an EU External Action²¹. - In the field of EU External Actions, if Sub-delegation is authorised insert:</p> | |
| <p>1.7 Under this Agreement the Organisation may delegate activities. [If the Sub-delegatee(s) are known, add: The Sub-delegatee(s) is/are: <insert >.</p> <p>Otherwise insert:</p> <p>1.7 Under this Agreement the Organisation may not delegate activities. The General Conditions on Sub-delegation shall not apply.</p> | <p>Article 1.7:</p> <p>The Sub-delegatees may have been already identified before the contract is signed. That being the case, their names and references shall be inserted under Article 1.7 Special Conditions. The Contracting Authority's signature of that specific contract will constitute acceptance of the Sub-delegatees.</p> <p>Should one or more sub-delegatees change, or a new one be chosen, Article 11.1 General Conditions applies.</p> <p>If the Organisation(s) did not pass the sub-delegation pillar, it will not be authorised to sub-delegate and the corresponding option in Article 1.7 should be selected.</p> |
| <p>Article 2 - Entry into Force, Execution Period, Implementation Period and Contracting Deadline</p> | |
| <p><u>Entry Into Force</u></p> <p>2.1 The Agreement shall enter into force on the date when the last of the two Parties signs.</p> | |
| <p><u>Execution Period</u></p> <p>2.2 The Execution Period of this Agreement shall start at the entry into force of</p> | <p>Article 2.2:</p> |

²⁰ Financial and Administrative Framework Agreement was signed on 29 April 2003. It applies to all contribution-specific agreements signed after that date.

²¹ EU External Actions are those under EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR and their predecessors.

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| <p>this Agreement as provided for in Article 2.1. The end of the execution period shall be the End Date referred to in Article 13.5 of Annex II</p> | <p>During the “Execution Period” the Agreement is “active”. The validity of the Agreement is made effective upon signature by the second party. As long as the Execution Period is “on”, the Agreement can be e.g. amended (see Article 11 General Conditions).</p> |
| <p><u>Implementation Period</u></p> <p>2.3 The Implementation Period of the Agreement (the "Implementation Period") shall commence on: <select one in agreement with the Organisation></p> <ul style="list-style-type: none"> - [the day after the last Party signs.] - [a later date.] - [the first day of the month following the date on which the first pre-financing is paid by the Contracting Authority.] - [a date preceding the signature of the Agreement, but not preceding the Organisation's request for a contribution.]²² | <p>Article 2.3:</p> <p>The Implementation Period starts at the date defined in the Article 2.3 of the Special Conditions and lasts the number of months specified in the Article 2.4. The implementation period ends at the conclusion of that number of months (e.g. implementation period starts 1st January and it is to last 11 months => it ends on 30th November).</p> <p>For the costs to be considered eligible for the EU funding (i.e. charged to the EU contribution), they must be incurred within the Implementation Period (see Article 18.1 and 25.1 of the General Conditions). Between the end of the Implementation Period and the end of the Execution Period it is still possible to amend the agreement (in line with Article 11 of the General Conditions)</p> |
| <p>2.4 The Implementation Period of the Agreement as laid down in Annex I is <indicate the number of months>. Upon adequate justification either Party may request the extension of the Implementation Period in accordance with Article 11 of Annex II.</p> | |
| <p><u>Contracting Deadline</u></p> <p>2.5. Individual Procurement and Grant contracts implementing this Agreement shall be signed by the Organisation (or the Sub-delegatees)</p> <p>For non EU External Actions insert.</p> <p>[no later than <indicate the number of months>²³ from the date of entry into force of this Agreement.]</p> <p>For EU External Actions select one²⁴</p> <p>[no later than thirty six (36) months from the date of entry into force of this Agreement]</p> <p>[no later than <indicate the number of months>²⁵ from the date of entry into force of this Agreement.]</p> | <p>Article 2.5:</p> <p>The Contracting Deadline shall only apply to:</p> <ol style="list-style-type: none"> 1) Procurement Contracts entered into by the Organisation and/or a Sub-delegatee and a Contractor; 2) Grant contracts entered into by the Organisation and/or a Sub-delegatee and a Grant Beneficiary. <p>This Contract Deadline does not apply to subsequent Procurement Contracts and/or sub-Grant contracts entered into by the Grant Beneficiary and its Contractors (or other third Parties); such contracts may be signed by the Grant Beneficiary at any time before or during the Implementation Period. When the Action is not a Multi-Donor Action (as defined in Article 1.4 Special Conditions), the procurement & Grant contracts signed for the implementation of the Action must be signed no later than 36 months following the date of entry into force of this Agreement, regardless of the actual duration of the Implementation Period (which could be longer).</p> |

²² This option shall be used if the Financing Decision so states or a prior approval has been Granted.

²³ The contracting period cannot exceed the implementation period.

²⁴ No constraint for non-EU External Actions other than commensurate.

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| | <p>For Multi-Donor Actions, there is no limitation on “by when” the contracts need to be signed. This Article nevertheless requires specifying “by when” the Contracting Period would end and this should be, in principle, aligned with the duration of the implementation period.</p> <p>For the purpose this Article, it is understood that the number of months of the contracting deadline can exceed 36 months both in Actions classified as Multi-donor and Parallel Co-financing.</p> |
| <p align="center">Article 3 - Financing the Action</p> | |
| <p>3.1. The total cost of the Action²⁶ is estimated at EUR <insert amount of the global Action>. The Contracting Authority undertakes to provide EU contribution²⁷ up to a maximum of EUR <insert amount²⁸>. The final amount will be established in accordance with Articles 15 to 18 of Annex II.</p> | <p>In the last sentence of this provision, reference to articles 18 to 20 (rather than articles 15 to 18) shall be made, in order to determine the final amount.</p> |
| <p>3.2 Remuneration The remuneration of the Organisation (or the Sub-delegates) by the Contracting Authority for the implementation of the activities entrusted under this Agreement shall be <enter percentage not exceeding 5.3 + 0.5 for customisation + 1.2 for hybrid cases²⁹> % of the final amount of accepted expenditure of the Action.</p> | <p>Article 3.2:</p> <p>It is understood that the remuneration of the Organisation for the implementation of the activities entrusted under the Agreement will be a max. of 5.8% of the final amount of accepted expenditures (which includes 0.5% for customisation). + 1.2 for hybrid cases.</p> <p>Due to the nature of UN's operations, it is expected that the actions carried out are of a hybrid nature and it is expected that there is always customisation, i.e. the remuneration under Delegation agreements should always be 7% and the Commission services do not need to discuss it case by case.</p> <p>In case of Multi-Donor Actions particular attention will have to be given to the rules of the Organisation which could provide for a lower rate for the funding of other comparable Donors. In such a case, the Commission cannot be charged a higher fee than the other comparable Donors, except for the additional provision for customisation (0.5%)</p> <p>Regarding remuneration, no additional % applies to the Sub-delegates. The possible redistribution of the remuneration among the Organisation and its Sub-delegates is fixed according to the applicable arrangements between them. The same applies in case</p> |

²⁵ The number of months can only exceed 36 months in the case of a Multi-donor Action. The contracting period cannot exceed the implementation period.

²⁶ This amount is introduced only for indicative purposes. It is an estimation and its evolution does not condition the EU contribution.

²⁷ Where the contribution is financed by the European Development Fund, mentions of EU contribution must be read as referring to European Development Fund financing.

²⁸ Acceptable expenditures + remuneration + exceptionally the categories of costs of article 3.4.

²⁹ Hybrid cases are those cases where the Organisation implements activities that complement the budget implementation tasks (i.e. technical assistance to final beneficiaries, meaning support and capacity building activities necessary for the implementation of a programme or an Action) which follow the costs reimbursement rules of direct management.

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| | of Co-delegates. |
| <p>3.3 Select one out of the 2 options:</p> <p>This option shall be selected when the rules of the Organisation do not provide for the reimbursement of interest on pre-financing in order to ensure equal treatment of donors:</p> <p>Interest generated on pre-financing shall not be due.</p> <p>This option shall be selected when the rules of the Organisation provide for the reimbursement of interest on pre-financing in order to ensure equal treatment of donors.</p> <p>Interest generated on pre-financing shall be due and <deducted from the payment requests or</p> <p>recovered, or re-used for the Action. ></p> | <p>Article 3.3:</p> <p>For the UN, based on provisions set out in the FAFA, UN rules and procedures pertaining to bank interest shall apply, and equal treatment among donors shall be ensured. Hence unless an individual UN entity's rules require returning interest, the 1st option shall be reflected in Agreements signed with the UN.</p> |
| <p>If a contingency reserve is foreseen include:</p> <p>[3.4 A reserve for contingencies and/or possible fluctuations in exchange rates not exceeding 5% of the acceptable expenditure may be included in Annex III, to allow for adjustments necessary in the light of unforeseeable changes of circumstances on the ground. It can be used only with the prior written authorisation of the Contracting Authority, upon a duly justified request from the Organisation.]</p> | <p>Article 3.4:</p> <p>In Multi-Donor Actions, this means that the Organisation will only have to ask the Commission for written authorisation once it wishes to spend the part of the contingency reserve corresponding to the proportion of the EU contribution. It is assumed that when contingency is used, the Organisation consumes first other sources of funds and only if the last part of the contingency (corresponding to the EU's share of it), is needed the Organisation would need to request a prior written authorisation of the Commission.</p> |
| <p>Article 4 - Narrative and Financial Reporting and Payment Arrangement</p> | |
| <p>4.1 Payments shall be made in accordance with Article 19 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:³⁰</p> <p>First pre-financing</p> | <p>Article 4.1:</p> <p>It is understood that the Organisation and the Commission will agree on the pre-financing rate referred to in Article 4.1 of the Special Conditions duly taking into</p> |

³⁰ The Parties have to agree on a pre-financing rate (X%). The determination of the amount of the first pre-financing corresponds to X% of the part of the forecast budget for the first 12-month period of the Action which is being financed by the EU. If necessary, each further instalment of pre-financing will consist of (1) where applicable, the remaining part of the budget financed by the EU for the previous period and (2) a new pre-financing of a percentage from X% of the part of the forecast budget for the subsequent 12-month period (or of the remaining period if shorter as regard to the last instalment of pre-financing) which is being financed by the EU (excluding contingencies). These are the amounts to be released upon legal commitment of 70% of the immediately preceding instalment. Unless there is an amendment to the budget, only the final payment may require re-calculation. Flat rate remuneration is claimed as a percentage in every instalment and not as a lump sum up-front.

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| <p>instalment.....EUR <.....> Second pre-financing instalment.....EUR <.....> Third pre-financing instalment.....EUR <.....> ... add as many instalments as years Forecast balance³¹.....EUR <.....></p> | <p>account the financing needs of the Organisation in accordance with the project implementation schedule and the EU budget availability.</p> <p>The Special Conditions may include terms allowing the reporting period to be adjusted, as and when required, to allow for payments to be requested by the Organisation.</p> <p>The Organisation may submit a request for further pre-financing payment before the end of the reporting period, when the part of the expenditure actually committed which is financed by the Contracting Authority is more than 70 % of the previous payments . In this case, the following reporting period starts anew from the end date of the period covered by this payment request.</p> <p>As regards Agreements signed with UN Organisations, the amount of the first pre-financing corresponds to 80% up to 100% of the EU's (in Multi-Donor Actions: proportional) share of the forecast budget for the first 12-month period of the Action (excluding contingencies, if any). Each further instalment of pre-financing will consist of (1) where less than 100% was paid for the previous year, the remaining part of the budget financed by the EU for the previous period and (2) a new pre-financing from 80% to 100% of the EU's part of the forecast budget for the subsequent 12-month period (or of the remaining period if shorter as regard to the last instalment of pre-financing), excluding contingencies. The 2nd and any further pre-financing amounts are the amounts to be released by the EU when the costs incurred and legal commitments represent at least 70% of the immediately preceding instalment (and 100% of the earlier ones), as demonstrated in a progress report. No adjustments of figures are required (unless there is an amendment to the budget), only the final payment may require recalculation.</p> |
| <p align="center">Article 5 – Communication language and contacts</p> | |
| <p>5.1 All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in <specify the language of this agreement³²>. If requested by the Contracting Authority they shall be accompanied by a translation or a summary in English or French where the language of the Agreement is not English or French.</p> | <p>Article 5.1:</p> <p>For the avoidance of doubt, Article 5.1 does not imply the obligation to provide English or French translations where the other language has been defined as the language of the agreement</p> |
| <p>5.2 Any communication relating to the Agreement shall be in writing, shall state the number and/or title of the Action, and shall use the following addresses below.</p> | |
| <p>5.3 Any communication relating to the Agreement, including payment requests</p> | |

³¹ The forecast balance (final payment), if any, is the difference between the total amount of the EU contribution and the sum of the previous instalments.

³² EN, FR, ES or PT.

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| | <p>and attached reports, and requests for changes to bank account arrangements shall be sent to:</p> <p><u>For the Contracting Authority</u></p> <p><complete details> For the attention of <Financial Unit/Section, including address></p> <p>optional [Copies of the documents referred to above, and correspondence of any other nature, shall be sent to: Contracting Authority <complete details> For the attention of <Operational Unit/Section, including address>]</p> <p><u>For the Organisation:</u></p> <p><Address of the Organisation></p> | |
| 5.4 | <p>Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.</p> | |
| 5.5 | <p>The contact point within the Organisation which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be: <complete OLAF contact point within the Organisation></p> | |
| 5.6 | <p>All communications to the Contracting Authority concerning the Central Exclusion Database shall be submitted by the Organisation to:</p> <p>Choose one option:</p> <p>If the Organisation has not provided a liaison point:</p> <p>To the Contracting Authority at the address stated in Article 5.3.</p> <p>If the Organisation has provided a liaison point:</p> <p><Include here the contact of the liaison point ></p> <p>If the Commission is not the Contracting Authority insert:</p> | |
| 5.7 | <p>A copy of the reports referred to in Article 3 of the General Conditions and the reports, publications, press releases and updates relevant to the Action referred to in Article 8.6 of the General Conditions shall be sent to:</p> <p><Insert address ></p> | |

Article 6 – Annexes

6.1 The following documents are annexed to these Special Conditions and form an integral part of the Agreement:

Annex I: Description of the Action (including the Logical Framework of the Project³³)

Annex II: General Conditions applicable to Delegation Agreements or PA Grant Agreements (Part III on PA Grant Agreements does not apply)

Annex III: Budget for the Action

Annex IV: Financial Identification Form³⁴

Annex V: Standard Request for Payment

Annex VI: Communication and Visibility Plan³⁵

Annex VII: Management Declaration template

Article 6.1:

Annex I – Description of the Action

This Annex is a vital document within the regime of PAGoDA template. It shall be comprehensively filled in. It should comprise, inter alia, the following elements:

1. Objectives (overall objectives and indicators outputs)
2. Relevance of the Action
3. Methodology
4. Indicative Action Plan
5. Sustainability
6. Logical Framework

There is no obligation to use a specific template for Annex I. The Organisation can use its own format, provided that it includes the referred elements and the reporting requirements.

There is no obligation to use any specific form of Logical Framework of the Action (only the elements constituting it are mandatory) but for any practical reason a standard Logical Framework of the Action template (in EN, FR, SP, PT) is attached here below:



Logframe matrix
templ EN FR SP...

There are no fixed templates for Annexes I & III and the Organisation can use its own project/program documents. The Annex III/Budget should reflect the structure normally used by the Organisation in its own accounting system. It is not advisable to impose models which do not reflect this structure (for instance, Annex III of the EU Grant

³³ The Description of the Action describes the budget implementation tasks and other additional tasks.

Indicative results indicators measuring outputs, outcomes and/or impact as determined by the nature of the Action, will be included in Annex I attached to the Agreement. These indicators shall be agreed by the Organisation in consultation with the Contracting Authority and are subject to change by agreement between the Parties without the need to amend the respective Agreement.

³⁴ Where payment is to be made to a bank account which is already known to the Contracting Authority, the Organisation may provide a copy of the relevant financial identification form:
http://ec.europa.eu/budget/contracts_Grants/info_contracts/financial_id/financial_id_en.cfm

If required, the Organisation shall provide a copy of the Legal Entity File: http://ec.europa.eu/budget/contracts_Grants/info_contracts/legal_entities/legal_entities_en.cfm

³⁵ The Communication and Visibility plan describes the measures to acknowledge that the Action receives EU funding.

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| | <p>Contract). The advantages of reflecting the budget structure of the Organisation include more robust financial reporting and audit trail showing the link between the financial report and the underlying accounting methods.</p> <p>Annex III – Budget</p> <p>The Budget of the action can be expressed in EUR or in the currency of the Organisation (depending on the currency chosen for reporting). If reporting is in the currency of the Organisation the budget is to be expressed in the same currency.</p> <p>When the budget is expressed in the currency of the Organisation it is not needed to have a column with the conversion in EUR (that would be in any case only indicative). In any case, the Contribution of the Organisation is limited by the max EU Contribution.</p> <p>As there is no standard template for the budget (except where the International Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the International Organisation when a contract is being signed.</p> <p>The budget structure (Annex III) should reflect the one normally used by the Organisation in its own accounting system. It is not advisable to impose models which do not reflect this structure. The advantages of reflecting the budget structure of the Organisation include more robust financial reporting and audit trail showing the link between the financial report and the underlying accounting methods. For the Organisation it should considerably reduce project transaction costs.</p> <p>However, regardless of the model used, clarifications on the budget should be sought by the Contracting Authority's services during the negotiation process in order to ensure a good understanding of the information contained in the document provided by the Organisation and to avoid any dispute at a later stage. This information should be used for the purpose of the reporting requirements. In particular, the structure of the budget for the action will determine to a great extent the structure of the financial reports to be provided by the Organisation.</p> |
| <p>6.2. In the event of a conflict between the present Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex II (General Conditions) and those of the other Annexes, the provisions of Annex II shall take precedence.</p> | |

Article 7 – Additional specific conditions applying to the Action

7.1. The following shall supplement the General Conditions:

7.1.1

If VAT, taxes, duties and charges are not eligible, i.e. the basic act/financing agreement excludes their eligibility

[7.1.x <VAT/ taxes, duties and charges > are not eligible [for the [following] activities as described in Annex I].

Costs of local infrastructure in the partner country (field office)³⁶

[7.1. Where the implementation of the Action requires the setting up or the use of local infrastructure in the partner country (field office), the Organisation may declare as acceptable expenditure the capitalised and operating costs of local infrastructure if all the following conditions are fulfilled:

a) They comply with the acceptability criteria referred to in Article 18.1 of the General Conditions;

b) They fall within one of the following categories:

i) costs of staff, including administrative and support staff, directly assigned to the operations of local infrastructure;

ii) travel and subsistence costs for staff and other persons directly assigned to the operations of local infrastructure;

iii) depreciation costs, rental costs or lease of equipment and assets composing local infrastructure;

iv) costs of maintenance and repair contracts specifically awarded for the operations of local infrastructure;

v) costs of consumables and supplies specifically purchased for the

Article 7.1:

The standard contractual supplementary provisions for each Organisation are foreseen in the respective Framework Agreement.

While interpretative provisions provide with relevant guidance regarding the application of the agreement, they should not be introduced in the individual contract.

Field offices and Management Administrative structures:

Please consider **COMMISSION DECISION C(2015)3174, from 18.5.2015**. This Decision comprises Field Offices and Management Administrative structures.

The provision inserted in the PAGODA template (in the left column, highlighted in grey) did not include the possibility of Management Administrative structures.

Should your Action involve Management Administrative structures and/or Field-offices, **please use this following updated provision:**

"In case there is an administrative or management structure³⁷ (exclusively dedicated to the action) and/or of a field office³⁸ ad³⁹:

7.1.x Where the implementation of the Action requires the setting up or the use of an administrative or management structure exclusively dedicated to the action and/or a local infrastructure in the partner country (field office), the Organisation may declare as eligible direct costs the capitalised and operating costs of the administrative or management structure if all the following conditions are fulfilled:

a) They comply with the cost eligibility criteria referred to in Article 18.1 or 25.1 of the General Conditions;

³⁶ To be inserted where the specific Action requires it. Depending on the usual costing practices of the Organisation, only part of the list of cost categories may be included.

³⁷ At the starting date of the implementation of the EU-supported action, the dedicated structure may be specifically set up or may already exist (notably if the action is a part of an on-going project). The dedicated structure may be set up in any country, including in the country of the headquarters of the grant beneficiary. It shall be exclusively dedicated to the action financed or co-financed by the EU and may not be used for other projects.

³⁸ "Field Office" shall be understood as referring to one or several field offices, in particular where the action is implemented in several third countries and requires the setting up or use of local infrastructure in several third countries.

³⁹ To be inserted where the specific action requires it. Depending on the usual costing practices of the Delegates, only part of the list of cost categories may be included.

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| <p>operations of local infrastructure;</p> <p>vi) costs of IT and telecommunication services specifically purchased for the operations of local infrastructure;</p> <p>vii) costs of energy and water specifically supplied for the operations of local infrastructure;</p> <p>viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of local infrastructure;</p> <p>c) The Organisation declares as acceptable expenditure only the portion of the capitalised and operating costs of local infrastructure which corresponds to the duration of the Action and</p> <p>i) the rate of actual use of local infrastructure for the purposes of the Action; or</p> <p>ii) the rate of use of local infrastructure for the purposes of the Action, determined by the Organisation on the basis of a simplified allocation method, provided that the allocation method is:</p> <ul style="list-style-type: none"> - compliant with the Organisation's usual accounting and management practices and applied in a consistent manner regardless of the source of funding, and - based on an objective, fair and reliable allocation key.] | <p>b) They fall within one of the following categories:</p> <p>i) costs of staff, including administration and management staff, directly assigned to the operations of the dedicated structure or local infrastructure. The tasks listed in the Description of the Action (Annex I), undertaken by staff assigned to the dedicated structure or local infrastructure will be directly attributable to the implementation of the Action.</p> <p>ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the dedicated structure or local infrastructure;</p> <p>iii) depreciation costs, rental costs or lease of equipment and assets composing the dedicated structure or local infrastructure.</p> <p>iv) costs of maintenance and repair contracts specifically awarded for the operations of the dedicated structure or local infrastructure;</p> <p>v) costs of consumables and supplies specifically purchased for the operations of the dedicated structure or local infrastructure;</p> <p>vi) costs of IT and telecommunication services specifically purchased for the operations of the dedicated structure or local infrastructure;</p> <p>vii) costs of energy and water specifically supplied for the operations of the dedicated structure or local infrastructure;</p> <p>viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of the dedicated structure or local infrastructure;</p> <p>c) The Organisation declares the eligible direct costs of the dedicated structure as actual costs or for staff costs on the basis of unit costs determined by the Organisation according to its usual accounting practice⁴⁰.</p> <p>d) The Organisation declares as acceptable expenditure only the portion of</p> |
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⁴⁰ Since the administrative and management structure is exclusively dedicated to the action the simplified allocation method of costs (which can be use in case of field offices) cannot be used.

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| | <p>the capitalised and operating costs of local infrastructure which corresponds to the duration of the Action and</p> <ul style="list-style-type: none"> i) the rate of actual use of local infrastructure for the purposes of the Action; or ii) the rate of use of local infrastructure for the purposes of the Action, determined by the Organisation on the basis of a simplified allocation method, provided that the allocation method is compliant with the Organisation' usual accounting and management practices, applied in a consistent manner regardless of the source of funding, and based on an objective, fair and reliable allocation key." <p>Until the PAGoDA CO is approved by Commission Decision, the inclusion of Management Administrative structures or further modifications on the Field-offices in the Agreement should be subject to approval of DEVCO/R.3.</p> |
| <p>7.2. The following derogations from the General Conditions shall apply:</p> <p>7.2.1 By derogation from Article, <Insert derogation>]</p> | <p>The standard contractual derogations for each Organisation are foreseen in the respective Framework Agreement. Derogations from Framework Agreements (which have been adopted by way of a Commission decision) can only be overruled by another Commission decision.</p> <p>The introduction of additional derogations, not foreseen in the Framework Agreements and not in contradiction with theirs, shall be done in consultation with DG DEVCO – R3.</p> <p>While interpretative provisions provide with relevant guidance regarding the application of the agreement (please check them in the Framework Agreement of the respective Organisation), they should not be introduced in the individual contract.</p> |

PAGoDA Special Conditions - Pillar Assessed (PA) Grant Agreement

| Text of the Article | Interpretation/ Guidelines on application |
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| Article 1 — Purpose | |
| 1.1 The purpose of this Agreement is the award of a financial contribution by the Contracting Authority to finance the implementation of the Action entitled: <title of the Action> (the ‘Action’) described in Annex I. | |
| 1.2 The [Organisation / Beneficiaries] shall be awarded the contribution on the terms and conditions set out in this Agreement, which consists of these special conditions (the ‘Special Conditions’) and the annexes, which the [Organisation / Beneficiaries] hereby declare[s] [it has] [they have] noted and accepted. | |
| 1.3 The [Organisation / Beneficiaries] accept[s] the contribution and undertake[s] to be responsible for carrying out the Action. | |
| 1.4 In the performance of the activities, the Organisation shall apply its own accounting, internal control and audit systems which have been positively assessed in the ex-ante pillars assessment, as well as any other Regulations and Rules, to the extent that these are not in conflict with the provisions of this Agreement. | <p>Article 1.4:</p> <p>To be considered, an Organisation must have undergone pillar assessment.</p> <p>Although the Financial Regulation does not establish the obligation of a positive result of such assessment concerning Grants, DEVCO sets that, as far as DG DEVCO is concerned, the basic pillars of accounting, internal control and external audit must have been positively assessed or remedial measures must have been put in place to ensure equivalent quality. All Organisations that will not fulfil these requirements will sign the standard Grant contract for EU-external Action.</p> <p>Where the Organisation had successfully passed a previous pillar assessment, they may still sign a PA Grant without a need to repeat the assessment.</p> <p>Unlike the Special Conditions for Delegation Agreements, the Special Conditions for PA Grants do not mention the procedures for procurement and (sub)Grants (i.e. financial support to third Parties) as the relevant rules to be followed are set forth in Article 29 of the General Conditions.</p> <p>The PA Grant template does not cater for operating Grants, since the Commission does not give co-financing to Pillar-Assessed Organisations.</p> |

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| <p>1.5 This Action [is / is not] an EU External Action.⁴¹ In case of an EU External Action add the applicable instrument/EDF: The Action is financed under <instrument under the EU Budget or EDF>.</p> | |
| <p>[1.6 This Agreement is subject to the provisions of <reference to any relevant framework agreement between the European Commission and the Organisation or delete>.]</p> | <p>Article 1.6: The Commission has signed the following framework agreements with Organisations within the context of PAGoDA templates:</p> <ol style="list-style-type: none"> 1. Framework Agreement with International Monetary Fund (IMF). The Agreement was signed on 20 May 2015. 2. Framework Agreement with European Bank for Reconstruction and Development (EBRD). The Agreement was signed on 1 June 2015. 3. Framework Agreement with Inter-American Development Bank (IDB). The Agreement was signed on the 10 June 2015. 4. Framework Agreement with International Organisation for Migration (IOM). The Agreement was signed on 12 June 2015. 5. Framework Agreement with the Organisation for Economic Cooperation and Development (OECD). The Agreement was signed on 16 June 2015. 6. Framework Agreement with Council of Europe (CoE). The Agreement was signed on 18 June 2015. 7. Framework Agreement with the Agence Française de Developpement (AFD), Kreditanstalt für Wiederaufbau (KfW) and Agencia Española de Cooperación Internacional para el Desarrollo (AECID). <p>Aside, the Financial and Administrative Framework Agreement ("FAFA") between the European Union and the United Nations (signed in 2003) which regulates the implementation of EU funds in the context of United Nations-led operations.</p> <p>All the above mentioned framework agreements can be found as Annexes to the DEVCO Companion (Chapter 7). Due to the confidentiality terms agreed with the different Organisations, the framework agreements are for the use of the Commission Services only.</p> <p>In case there is a Financing Decision establishing the signature of a PA Grant</p> |

⁴¹ EU External Actions are those under EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR and their predecessors.

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| | <p>Agreement, this Agreement should be signed by the European Commission, rather than by a Partner Country.</p> <p>For Agreements signed with the UN this Article should include reference to the Financial and Administrative Framework Agreement⁴².</p> |
| <p align="center">Article 2 — Implementation and execution period of the Action</p> | |
| 2.1 | <p>This Agreement shall enter into force on the date when the second of the two Parties signs.</p> |
| 2.2 | <p>Implementation of the Action shall begin on:</p> <p><select one in agreement with the Organisation></p> <ul style="list-style-type: none"> - [the day after the last Party signs.] - [a later date.] - [the first day of the month following the date on which the first pre-financing is paid by the Contracting Authority.] - <exceptionally and subject to conditions on retroactive eligibility as stipulated in the Practical Guide⁴³, a date preceding the signature of the Agreement.(specify the date)>. |
| 2.3 | <p>The Implementation Period of the Action is <number of months>.</p> |
| 2.4 | <p>The Execution Period of this Agreement shall end on the end date as stipulated under Article 13.5 of Annex II.</p> |
| <p align="center">Article 3 — Financing the Action</p> | |
| 3.1 | <p>The total eligible costs of the Action are estimated at EUR < > as set out in Annex III.</p> |
| 3.2 | <p>The Contracting Authority undertakes to finance a maximum amount of <EUR..... >. This contribution is further limited to <enter applicable percentage⁴⁴> of the total eligible cost of the Action.</p> |
| | <p>Article 3.2:</p> <p>Please refer to comments in Article 27.2 of the General Conditions.</p> |

⁴² Financial and Administrative Framework Agreement was signed on 29 April 2003. It applies to all contribution-specific agreements signed after that date.

⁴³ "Procurement And Grants for European Union external Actions – A Practical Guide" – available at <http://ec.europa.eu/europeaid/prag> .

⁴⁴ In case of direct award, when the Action under this Agreement is part of a bigger project or programme of the Organisation for which the total final budget is not known at the time of the signature of this Agreement, the percentage may be 100% if the Contracting Authority has the assurance of the existence of co-financing.

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| <p>The final amount of the Contracting Authority's contribution shall be determined in accordance with Articles 24, 25, 27 and 28 of Annex II.</p> | |
| <p>3.3 Pursuant to Article 25 of Annex II, eligible indirect costs shall be declared on the basis of a flat-rate of <enter percentage, maximum 7 % ...> % of the final amount of direct eligible costs of the Action established in accordance with Articles 24, 25, 27 and 28 of Annex II.</p> | |
| <p>Insert if applicable:</p> <p>3.4 For EU External Actions, a reserve for contingencies and/or possible fluctuations in exchange rates not exceeding 5 % of the direct eligible costs may be included in Annex III, to allow for adjustments necessary in the light of unforeseeable changes of circumstances on the ground. It can be used only with the prior written authorisation of the Contracting Authority, upon duly justified request by the Organisation.</p> | <p>Article 3.4:</p> <p>A reserve for <u>unforeseeable</u> contingencies and/or exchange rate fluctuations not exceeding 5 % of the direct eligible costs may be included in the budget for EU External Actions given the specificity and the higher level of unpredictability of external Actions. As a consequence, the contingency reserve should only be included in the initial total budget, and not budgeted in the requests for pre-financing.</p> <p>Note that the use of the contingency reserve is subject to the prior <u>written approval</u> of the Contracting Authority, who will make an evaluation and take a decision on a case by case basis. An amendment in accordance to Article 11 has to be issued if the 25% threshold is exceeded or where the basic purpose of the Action is affected.</p> <p>The reserve may be split into direct and indirect costs if used, but the total amount of the Grant cannot be changed. When it is needed, under Contracting Authority's approval, it can be used either to cover only direct costs, or it may be proportionately split between direct and indirect costs. The only constraint is that the indirect costs cannot exceed the % of direct eligible costs (usually up to 7%) defined in the PA Grant Agreement.</p> <p><u>Exchange rate fluctuation</u></p> <p>This case would just be one of the possible reasons justifying the use of the contingency reserve, for which the Organisation is not responsible and has already adopted all the possible risk mitigating measures according to the best practices in the sector.</p> <p>If the decision is to allow the use of contingencies, these will not finance an “exchange rate difference” per se. They will finance eligible costs which have increased compared to the original estimate (because of the currency exchange). Therefore, the funds will be distributed to the concerned eligible costs heading(s) of the budget.</p> |

Article 4 — Reporting and payment arrangements

4.1 Payments shall be made in accordance with Article 26 of Annex II

< For EU External Actions insert The agreed pre-financing rate is <....>%.⁴⁵>

Initial pre-financing instalment: <... EUR >

For EU External Actions, the further pre-financing instalments should be indicated as one global amount and not broken down per payment. The actual instalments will be based on the updated forecast for the next reporting period. The total sum of pre-financing instalments may not exceed 95 % of the amount referred to in Article 3.2 of the Special Conditions, excluding not authorised contingencies; where the Implementation Period is 12 months or less or where the EU contribution is EUR 100.000 or less, further pre-financing instalments should not be included

Further pre-financing instalment(s): <... EUR..... > following the end of the <1st, 2nd, etc. > reporting period < from date to date >⁴⁶

(subject to the provisions of Annex II)

Forecast balance of the final amount of the contribution:

(subject to the provisions of Annex II): <... EUR..... >]

Article 4.1:

Where the PA Grant Agreement is the result of a call for proposals, the agreed pre-financing has been defined in the relevant guidelines for applicants. There may be different pre-financing rates applicable to different types of entities and the guidelines for applicants shall take that into account.

As regards Agreements signed with UN Organisations, the amount of the first pre-financing corresponds to 80% up to 100% of the EU's (in Multi-Donor Actions: proportional) share of the forecast budget for the first 12-month period of the Action (excluding contingencies, if any). Each further instalment of pre-financing will consist of (1) where less than 100% was paid for the previous year, the remaining part of the budget financed by the EU for the previous period and (2) a new pre-financing from 80% to 100% of the EU's part of the forecast budget for the subsequent 12-month period (or of the remaining period if shorter as regard to the last instalment of pre-financing), excluding contingencies. The 2nd and any further pre-financing amounts are the amounts to be released by the EU when the costs incurred and legal commitments represent at least 70% of the immediately preceding instalment (and 100% of the earlier ones), as demonstrated in a progress report. No adjustments of figures are required (unless there is an amendment to the budget), only the final payment may require re-calculation.

4.2 For contributions of more than EUR 5.000.000, For EU External Actions add: [a further pre-financing payment may be made only if the part financed by the Contracting Authority of the eligible costs approved is at least equal to the total amount of all the previous payments excluding the last one.] For internal policies, if a pre-financing is paid and if the reporting periods exceed eighteen month, add: [in addition to the reporting requirements set out in Article 3 of Annex II, the Organisation shall inform the Contracting Authority by <31 December> <30 November> each year about the cumulative expenditure incurred by the [Organisation / Beneficiaries] from the starting date of the Action specified in Article 2.2. This information is required for the Contracting Authority 's accounting purposes and may not be used for determining the final amount of the contribution.]

[4.x For specific reporting requirements: <Specify the applicable reporting requirements and payment schedules/length of reporting period>]

Article 4.2:

For EU External Actions and for Grants of more than EUR 5 000 000, there is an additional condition (beyond the 70% rule) to be respected to be able to make a further pre-financing payment: The part of the total amount of eligible costs approved which is financed by the Contracting Authority must be at least equal to the total amount of all the previous payments except the last one. Therefore in order to make a further pre-financing payment, all the previous payments, except the last one, must be matched by an equivalent amount of eligible expenditure approved by the Contracting Authority. The last one can still be (partially) open (i.e. not entirely backed by approved expenditure). In principle, this situation should not materialize, given the presence of the 70% rule. In the substance, it is therefore a precautionary clause for exceptional extreme situations which should not have a substantial impact on payments.

⁴⁵ The Parties have to agree on a pre-financing rate (X%). The determination of the amount of the pre-financing instalments corresponds to X% of the part of the forecast budget for the following reporting period of the Action which is being financed by the EU (excluding not authorised contingencies).

⁴⁶ For EU External Actions, by default, the reporting period is every 12 months as from the commencement of the Implementation Period.

Article 5 — Communication language and contacts

5.1 All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in <specify the language of this agreement⁴⁷>. If requested by the Contracting Authority they shall be accompanied by a translation or a summary in English or French where the language of the Agreement is not English or French.

Article 5.1:

To clarify, Article 5.1 does not imply the obligation to provide English or French translations where the other language has been defined as the language of the agreement.

5.2 Any communication relating to the Agreement shall be in writing, shall state the number and/or title of the Action, and shall use the following addresses below.

5.3 Any communication relating to the Agreement, including payment requests and attached reports, and requests for changes to bank account arrangements shall be sent to:

For the Contracting Authority

[Option 1: where the Contracting Authority is the European Commission:

European Commission

<Directorate-General for *insert responsible DG*>

For the attention of <address of the finance unit/section>

Copies of the documents referred to above, and correspondence of any other nature, shall be sent to:

European Commission

< Directorate-General for *insert responsible DG*>

For the attention of <address of the management unit/section>]

[Option 2: where the Contracting Authority is not the European Commission:

<address of the Contracting Authority's management department>]

[A copy of the reports referred to in Article 4.1 shall be sent to the concerned service of the European Commission, at the following address: <address of Directorate-General for

⁴⁷ EN, FR, ES or PT.


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| <p><i>insert responsible DG></i></p> <p><u>For the Organisation</u></p> <p><address of the Organisation for correspondence></p> | |
| <p>5.4. Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.</p> | |
| <p>5.5 The contact point within the Organisation which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be: <complete OLAF contact point within the Organisation></p> | |
| <p style="text-align: center;">Article 6 — Annexes</p> | |
| <p>6.1 The following documents are annexed to these Special Conditions and form an integral part of the Agreement:</p> <p>Annex I: <Description of the Action (including the Logical Framework of the Project⁴⁸ and – where applicable - the Concept Note) ></p> <p>Annex II: General Conditions for PA Grant or Delegation Agreements (Part II on Delegation Agreements does not apply)</p> <p>Annex III: Budget for the Action</p> <p>Annex IV: Financial identification form⁴⁹</p> <p>Annex V: Standard request for payment</p> | <p>Article 6.1:</p> <p><u>Annex I – Description of the Action</u></p> <p>This Annex is a vital document within the regime of PAGoDA template. It shall be comprehensively filled in. It should comprise, inter alia, the following elements:</p> <ol style="list-style-type: none"> 1. Objectives (overall objectives and indicators outputs) 2. Relevance of the Action 3. Methodology 4. Indicative Action Plan 5. Sustainability 6. Logical Framework <p>There is no obligation to use a specific template for Annex I. The Organisation can use its own format, provided that it includes the referred elements and the reporting</p> |

⁴⁸ Indicative results indicators measuring outputs, outcomes and/or impact as determined by the nature of the Action, will be included in Annex I attached to the Agreement. These indicators shall be agreed by the Organisation in consultation with the Contracting Authority and are subject to change by agreement between the Parties without the need to amend the respective Agreement.

⁴⁹ Where payment is to be made to a bank account which is already known to the Contracting Authority, the Organisation may provide a copy of the relevant financial identification form:

http://ec.europa.eu/budget/contracts_Grants/info_contracts/financial_id/financial_id_en.cfm

If required, the Organisation shall provide a copy of the Legal Entity File: http://ec.europa.eu/budget/contracts_Grants/info_contracts/legal_entities/legal_entities_en.cfm

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| <p>Annex VI: Communication and Visibility Plan⁵⁰</p> | <p>requirements.</p> <p>There is no obligation to use any specific form of Logical Framework of the Action (only the elements constituting it are mandatory) but for any practical reason a standard Logical Framework of the Action template (in EN, FR, SP, PT) is attached here below:</p> <p> Logframe matrix templ EN FR SP...</p> <p>When the Organisation applies for the EU Grant through calls for proposals, it needs to use the project proposal templates provided for all applicant for a given call.</p> <p>When the Organisation is awarded a Grant directly (i.e. not through a call for proposals), the project proposal (Annexes I & III of the Agreement) can be developed based on the Organisation's own templates. The Annex III/Budget should reflect the structure normally used by the Organisation in its own accounting system. It is not advisable to impose models which do not reflect this structure (for instance, Annex III of the EU Grant Contract). The advantages of reflecting the budget structure of the Organisation include more robust financial reporting and audit trail showing the link between the financial report and the underlying accounting methods.</p> <p>Annex III – Budget</p> <p>The Budget of the action can be expressed in EUR or in the currency of the Organisation (depending on the currency chosen for reporting). If reporting is in the currency of the Organisation the budget is to be expressed in the same currency. When the budget is expressed in the currency of the Organisation it is not needed to have a column with the conversion in EUR (that would be in any case only indicative). In any case, the Contribution of the Organisation is limited by the max EU Contribution and by the percentage of co-financing.</p> <p>As there is no standard template for the budget (except where the International Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the International Organisation when a contract is being signed.</p> |
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⁵⁰ The Communication and Visibility plan describes the measures to acknowledge that the Action receives EU funding.

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| | <p>The budget structure (Annex III) should reflect the one normally used by the Organisation in its own accounting system. It is not advisable to impose models which do not reflect this structure. The advantages of reflecting the budget structure of the Organisation include more robust financial reporting and audit trail showing the link between the financial report and the underlying accounting methods. For the Organisation it should considerably reduce project transaction costs.</p> <p>However, regardless of the model used, clarifications on the budget should be sought by the Contracting Authority's services during the negotiation process in order to ensure a good understanding of the information contained in the document provided by the Organisation and to avoid any dispute at a later stage. This information should be used for the purpose of the reporting requirements. In particular, the structure of the budget for the action will determine to a great extent the structure of the financial reports to be provided by the Organisation.</p> |
| <p>6.2 In the event of a conflict between the provisions of the present Special Conditions and any annex thereto, the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex II and those of the other annexes, those of Annex II shall take precedence.</p> | <p>Article 6.2:</p> <p>In case the agreement it the result of a call for proposals the annexes will be based on the documents published with the relevant call (in particular budget and description of the Action).</p> |
| <p align="center">Article 7 — Other specific conditions applying to the Action</p> | |
| <p>7.1 The General Conditions are supplemented by the following:</p> <p>If any Affiliated Entity in line with the Guidelines for applicants (where applicable) or agreed with the Contracting Authority in cases of direct awards:[7.1.x For the purpose of this Agreement, the following legal entities are considered as Affiliated Entities:</p> <p>-<name of the legal entity>, affiliated to <name of the Organisation or Co-Beneficiary>.</p> <p>-<name of the legal entity>, affiliated to <name of the Organisation or Co-Beneficiary>.</p> <p>If financial support is provided for in the Guidelines for applicants (where applicable) or agreed with the Contracting Authority in cases of direct awards:[7.1.x Financial support to third Parties may only be awarded in accordance with the criteria and conditions laid down in the Description of the Action in Annex I.</p> <p>optional Financial support is one of the main purposes of the Action.</p> | <p>Article 7.1:</p> <p>If Financial support to third Parties has been defined in the guidelines as one of the main purposes of the Action, it is possible to exceed the ceiling of 60.000 € per third party recipient (see Article 29. 5 General Conditions).</p> <p>Direct awards under PA Grants are possible in the cases described in section 6.4.2. of the Practical Guide (PRAG).</p> <p>All the above mentioned framework agreements can be found as Annexes to the DEVCO Companion (Chapter 7). Due to the confidentiality terms agreed with the different Organisations, the framework agreements are for the use of the Commission Services only.</p> <p><u>Accepted cost system</u></p> <p>The call for proposals or the PA Grant Agreement may provide for the “accepted cost system”, introducing a second percentage to be respected when determining EU funding. This allows the acknowledgment of the payment by the Organisation or by the Co-Beneficiaries of ineligible costs, notably non-recoverable taxes, in-kind contributions or overheads exceeding 7 %: the EU-contribution to the eligible costs may be increased</p> |

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| <p>If VAT, taxes, duties and charges are not eligible, i.e. in one of the following cases:</p> <ol style="list-style-type: none"> 1. the basic act/financing agreement excludes their eligibility 2. the Call for Proposals excludes their eligibility 3. for VAT, the activities supported through the contribution are engaged in by the Organisation/Beneficiaries as a Member State public authority (police, justice and public domain management). <p>[7.1.x <VAT/ taxes, duties and charges > are not eligible [for the [following] activities as described in Annex I].</p> <p>In case of accepted costs system (ineligible taxes, other ineligible costs...):</p> <p>7.1.x The following non eligible costs may be considered part of the total accepted costs of the Action for the purpose of co-financing, as follows: < clarify the conditions and specificities of the eligible costs, such as, ineligible taxes, including VAT, indirect costs exceeding 7%, etc.></p> <p>The corresponding cost must be included separately in the budget and in the financial reports.</p> <p>The total accepted costs of the Action are estimated at <enter total of estimated eligible costs plus non eligible costsEURO>, as set out in Annex III.</p> <p>To add in case of eligible costs system where a mandatory co-financing percentage has to be complied with (ex. following Call for proposals, % set in the financing decision, etc.):</p> <p>The Contracting Authority's contribution set out in Article 3.2 is further limited to < enter applicable percentage >% of the total accepted costs.⁵¹</p> <p>Costs of local infrastructure in the partner country (field office)⁵²</p> <p>[7.1.x Where the implementation of the Action requires the setting up or the use of local infrastructure in the partner country (field office), the Organisation may declare as eligible direct costs the capitalised and operating costs of local infrastructure if all the following conditions are fulfilled:</p> | <p>while at the same time the co-financing requirement will be fulfilled by the payment of such taxes or costs. To be able to do this, two (maximum) co-financing rates must be specified in the guidelines for applicants:</p> <ul style="list-style-type: none"> - One percentage applicable to eligible costs. This is used to calculate the actual amount of the EU-contribution as usual; and - One percentage applicable to the total accepted costs (=total eligible costs + non-eligible taxes or costs). This is used to calculate the required amount of co-financing by the Beneficiaries. If the amount of co-financing does not reach the minimum percentage fixed in the PA Grant Agreement, then the EU-contribution will be reduced proportionately. <p>Note that the guidelines for applicants will specify the maximum rates. The rates that will be fixed in the PA Grant Agreement will depend on the contribution asked by the Organisation. The final amount of the EU contribution will be subject to the maximum amount laid down in the PA Grant Agreement, and to the co-financing rates applied to the final costs (that are only known at the time of the approval of the final report).</p> <p>Provided they are necessary, directly related to the Action and incurred during the implementation period, total accepted costs can be considered as part of the co-financing of the Organisation. They can be considered to fall within the share of co-financing of the Organisation if they have been clearly identified in the budget of the Action. They are ineligible costs, to be entered in a separate budget heading and form part of the total accepted costs.</p> <p>Additionally, the Commission may acknowledge <i>ex ante</i> the existence of non-eligible costs that are accepted for the purposes of co-financing - "Total Accepted Costs". This fact should be indicated in the Special Conditions. It is for instance the case of Actions with some UN Bodies, in which the Organisation's indirect administrative costs actually incurred are 8% as documented by the relevant decisions by their governing bodies. Such ex-ante cases should be justified and the proof included in a request for exception to be encoded in CRIS as to have the proof and documentation of such ex-ante check available for future audits or controls. Should an Action involve this type of costs, an alternative wording to be included in the template could be:</p> <p>7.1.x The Parties agree that Indirect costs incurred by the Organisation are higher than 7% and agree on the existence of co-financing for the purposes of Article 29.2 on rules of nationality and origin. As the proof of such co-financing has been provided ex-ante</p> |
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⁵¹ The percentages set with regard to the total eligible costs and total accepted costs shall apply cumulatively so that the Contracting Authority's contribution shall be limited to the lowest amount obtained by respectively applying the percentages to the final total eligible and accepted costs approved by the Commission. In case the total accepted costs are equal to the total eligible costs, the percentage applicable to the total accepted costs applies to the total eligible costs to ensure the required co-financing.

⁵² To be inserted where the specific Action requires it. Depending on the usual costing practices of the Organisation, only part of the list of cost categories may be included.

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| <p>a) They comply with the cost eligibility criteria referred to in Article 25.1 of the General Conditions;</p> <p>b) They fall within one of the following categories:</p> <ul style="list-style-type: none"> i) costs of staff, including administrative and support staff, directly assigned to the operations of local infrastructure; ii) travel and subsistence costs for staff and other persons directly assigned to the operations of local infrastructure; iii) depreciation costs, rental costs or lease of equipment and assets composing local infrastructure. iv) costs of maintenance and repair contracts specifically awarded for the operations of local infrastructure; v) costs of consumables and supplies specifically purchased for the operations of local infrastructure; vi) costs of IT and telecommunication services specifically purchased for the operations of local infrastructure; vii) costs of energy and water specifically supplied for the operations of local infrastructure; viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of local infrastructure; <p>c) The Organisation declares as direct eligible costs only the portion of the capitalised and operating costs of local infrastructure which corresponds to the duration of the Action and</p> <ul style="list-style-type: none"> i) the rate of actual use of local infrastructure for the purposes of the Action; or ii) the rate of use of local infrastructure for the purposes of the Action, determined | <p>there is no reporting requirement on these costs.</p> <hr/> <p><u>Field offices and Management Administrative structures:</u></p> <p>Please consider COMMISSION DECISION C(2015)3174, from 18.5.2015. This Decision comprises Field Offices and Management Administrative structures.</p> <p>The provision inserted in the PAGoDA template (in the left column, highlighted in grey) did not include the possibility of Management Administrative structures.</p> <p>Should your Action involve Management Administrative structures and/or Field-offices, <u>please use this following updated provision:</u></p> <p>"In case there is an administrative or management structure⁵³ (exclusively dedicated to the action) and/or of a field office⁵⁴ ad⁵⁵:</p> <p>7.1.x Where the implementation of the Action requires the setting up or the use of an administrative or management structure exclusively dedicated to the action and/or a local infrastructure in the partner country (field office), the Organisation may declare as eligible direct costs the capitalised and operating costs of the administrative or management structure if all the following conditions are fulfilled:</p> <ul style="list-style-type: none"> a) They comply with the cost eligibility criteria referred to in Article 18.1 or 25.1 of the General Conditions; b) They fall within one of the following categories: <ul style="list-style-type: none"> i) costs of staff, including administration and management staff, directly assigned to the operations of the dedicated structure or local infrastructure. The tasks listed in the Description of the Action (Annex I), undertaken by staff assigned to the dedicated structure or local infrastructure will be directly attributable to the implementation of the Action. |
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⁵³ At the starting date of the implementation of the EU-supported action, the dedicated structure may be specifically set up or may already exist (notably if the action is a part of an on-going project). The dedicated structure may be set up in any country, including in the country of the headquarters of the grant beneficiary. It shall be exclusively dedicated to the action financed or co-financed by the EU and may not be used for other projects.

⁵⁴ "Field Office" shall be understood as referring to one or several field offices, in particular where the action is implemented in several third countries and requires the setting up or use of local infrastructure in several third countries.

⁵⁵ To be inserted where the specific action requires it. Depending on the usual costing practices of the Delegates, only part of the list of cost categories may be included.

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| <p>by the Organisation on</p> <p>the basis of a simplified allocation method, provided that the allocation method is:</p> <ul style="list-style-type: none"> - compliant with the Organisation's usual accounting and management practices and applied in a consistent manner regardless of the source of funding, and - based on an objective, fair and reliable allocation key.] | <ul style="list-style-type: none"> ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the dedicated structure or local infrastructure; iii) depreciation costs, rental costs or lease of equipment and assets composing the dedicated structure or local infrastructure. iv) costs of maintenance and repair contracts specifically awarded for the operations of the dedicated structure or local infrastructure; v) costs of consumables and supplies specifically purchased for the operations of the dedicated structure or local infrastructure; vi) costs of IT and telecommunication services specifically purchased for the operations of the dedicated structure or local infrastructure; vii) costs of energy and water specifically supplied for the operations of the dedicated structure or local infrastructure; viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of the dedicated structure or local infrastructure; <p>c) The Organisation declares the eligible direct costs of the dedicated structure as actual costs or for staff costs on the basis of unit costs determined by the Organisation according to its usual accounting practice⁵⁶.</p> <p>d) The Organisation declares as acceptable expenditure only the portion of the capitalised and operating costs of local infrastructure which corresponds to the duration of the Action and</p> <ul style="list-style-type: none"> i) the rate of actual use of local infrastructure for the purposes of the Action; or ii) the rate of use of local infrastructure for the purposes of the Action, determined by the Organisation on the basis of a simplified allocation method, provided that the allocation method is compliant with the Organisation' usual accounting and |
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⁵⁶ Since the administrative and management structure is exclusively dedicated to the action the simplified allocation method of costs (which can be use in case of field offices) cannot be used.

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| | management practices, applied in a consistent manner regardless of the source of funding, and based on an objective, fair and reliable allocation key." |
| <p>7.2 The following derogations from Annex II shall apply:</p> <p><i>If the objective of the Action is to reinforce the financial capacity of the Organisation or a Co-Beneficiary or to generate an income to ensure its sustainability beyond the end of this Agreement</i></p> <p>[7.2.x The no-profit rule shall not apply to this Agreement, according to Article 28.4 of Annex II:</p> <p><choose ></p> <p>a) Actions the objective of which is the reinforcement of the financial capacity of the Organisation or a Co-Beneficiary</p> <p>b) Actions which generate an income to ensure their continuity beyond the end of this Agreement</p> <p>[7.2.x < if appropriate, insert here the specific currency for reporting and the corresponding conversion rules to be applied if the general rules set out in Article 3.14 and 3.15 of Annex II do not apply>]</p> <p>For EDF only where the Agreement implements a financing agreement concluded following a 2013 or earlier template</p> <p>[7.2.x The initial pre-financing payment shall be made within 45 days of receipt of the payment request by the Contracting Authority.]</p> <p>For EDF only where the Agreement implements a financing agreement concluded following a 2014 or later template</p> <p>[7.2.x The initial pre-financing payment shall be made within 60 days of receipt of the payment request by the Contracting Authority.]</p> | <p>Article 7.2:</p> <p>The standard contractual derogations for each Organisation are foreseen in the respective Framework Agreement. Derogations from Framework Agreements (which have been adopted by way of a Commission decision) can only be overruled by another Commission decision.</p> <p>The introduction of additional derogations shall be done in consultation with <u>DG DEVCO – R3</u>.</p> <p>While interpretative provisions provide with relevant guidance regarding the application of the agreement (please check them in the Framework Agreement of the respective Organisation), they should not be introduced in the individual contract.</p> |

Example Logical Framework of the Action

The Logical Framework of the Action will evolve during the lifetime of the project: new lines will be added for listing the activities as well as new columns for intermediary targets (milestones) when it is relevant and for reporting purpose on the achievement of results as measured by indicators.

| | Intervention logic | Indicators | Valeurs de référence (incl. reference year) | Targets (incl. reference year) | Sources and means of verification | Assumptions |
|-----------------------------------|---|--|--|--|--|---|
| Overall objective: Impact | The broader, long-term change which will stem from the project and a number of interventions by other partners. | Measure the long-term change to which the project contributes. To be presented disaggregated by gender. It is normally not appropriate for the project itself to try and collect this information. | Ideally, to be drawn from the partner's strategy | Ideally, to be drawn from the partner's strategy | To be drawn from the partner's strategy. | |
| Specific objective(s): Outcome(s) | The direct effects of the project which will be obtained at medium term and which tend to focus on the changes in behaviour resulting from project | Measure the change in factors determining the outcome(s). To be presented disaggregated by gender | The starting point or current value of the indicators. | The intended value of the indicators. | Sources of information and methods used to collect and report (including who and when/how frequently). | Factors outside project management's control that may impact on the outcome-impact linkage. |
| Outputs | The direct/tangible outputs (infrastructure, goods and services) delivered by the project. | Measure the degree of delivery of the outputs. To be presented disaggregated by gender. | Idem as above for the corresponding indicators. | Idem as above for the corresponding indicators. | Idem as above for the corresponding indicator. | Factors outside project management's control that may impact on the output-outcome linkage. |