

ANNEX IV TO THE EUROPEAN UNION DELEGATION AGREEMENT
NUMBER *<FILL IN THE REFERENCE OR IDENTIFICATION NUMBER OF THE
AGREEMENT>*

**GENERAL CONDITIONS TO THE
EUROPEAN UNION DELEGATION AGREEMENT FOR
INDIRECT CENTRALISED METHOD OF IMPLEMENTATION**

GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE I : REQUIRED CONDITIONS

- (1) The Delegatee body is responsible for carrying out tasks relating to the implementation of the Action as described in Annex I of the Agreement. The Delegatee body will carry out the tasks related to, among others; preparation, implementation and closure of grant agreements and procurement contracts, and management of corresponding expenditures.
- (2) If provided so in article 3.1 of the Special Conditions, the Commission accepts that the audit, accounting, public procurement and grant award systems of the Delegatee body are equivalent to its own, with due account for internationally accepted standards.

**ARTICLE II: GENERAL
OBLIGATIONS**

- (1) In performing the tasks entrusted to it under the Agreement, the Delegatee body may not carry out tasks involving a large measure of discretion implying political choices and in particular:
 - (a) it may not set nor modify objectives, strategies and priority areas of the Action as described in Annex I;
 - (b) it may not act for missions other than those expressly delegated to it by the Agreement
- (2) The Delegatee body shall be responsible for the overall administration of all the activities required to implement the Action, in particular:
 - (a) conclude contracts for procurement, and grants, make the appropriate payments and manage any ensuing agreements, including carrying out all the activities required to appropriate manage these type of activities by its implementing partners or contractors and, if need be, to assume the recovery of funds unduly paid;
 - (b) conduct regular checks, at least once a year, in order to ensure whether the requirements related to visibility of the Action, as referred to in article VII, financed under the Agreement are duly respected;
 - (c) supply to the Commission any information requested within 30 days;
 - (d) participate in coordination meetings and other jointly organised common activities with the Commission.
- (3) The Delegatee body shall perform the tasks assigned to it under the Agreement in accordance with the principle of sound financial management that is in conformity with the principles of

economy, efficiency and effectiveness, and shall carry out the necessary checks in accordance with the terms and arrangements laid down in the relevant rules.

- (4) The Delegatee body shall notify the Commission without delay of any substantial change in its procedures or systems, in particular those which may affect the conditions for eligibility provided for in the applicable legal instruments mentioned in Annex II, or any other circumstance liable to affect the implementation of the Agreement or delay or jeopardise performance of the delegated tasks. In particular, it shall update the information on audit, accounting, procurement systems and effective and efficient internal control systems. The Commission reserves the right to adopt additional measures in reaction to the changes as referred above or to terminate the Agreement pursuant to the provisions of Article X (2) hereafter.
- (5) The Delegatee body shall use a general system for keeping accounts and to preserve the personal data and for the administrative and financial monitoring of grant agreements and procurement contracts (correspondence, follow-up or reminder letters, receipt of reports, etc.).
- (6) The Delegatee body shall take appropriate measures to prevent irregularities, fraud¹, corruption² or any other illegal activity in the management of the Action. All suspected and actual cases of irregularity, fraud and corruption related to the Agreement as well as measures related thereto taken by the Delegatee body must be reported to the Commission without delay.

At the latest before the procurement or grant award decision is taken, the Delegatee body shall verify, in accordance with the article 6.3 of the Special Conditions, that there is not a detection of the third party (i.e. an applicant for a grant, candidate or tenderer, including partners) concerned in the Early Warning System (W5)³.

Where appropriate, the Delegatee body is responsible for termination of contracts or agreements with partners, contractors, staff involved in fraudulent behaviour or corrupt practices in connection with this Agreement or any other actions implemented by the Delegatee body and financed by the European Union, and for bringing legal proceedings to recover funds wrongly paid or incorrectly used.

- (7) The Delegatee body shall conduct regular checks to ensure that the Action has been implemented correctly. Where necessary, it shall take appropriate measures to resolve problems encountered, in proportion to their seriousness.⁴ If the situation requires so, it shall bring legal proceedings to recover funds wrongly paid or incorrectly used.
- (8) The Delegatee body is responsible towards the Commission for all unduly paid funds.

¹ See Article 1 of the Convention on the protection of the European Communities' financial interests of 26 July 1995, OJ C 316, 27.11.1995, p.48.

² See Articles 2 and 3 of the first protocol to the Convention on the protection of the European Communities' financial interests, OJ C 313, 23.10.1996, p.1.

³ C(2004) 193/3 of 03.02.2004, as last amended by the 2007 internal rules
(http://www.cc.cec/budg/i/earlywarn/imp-110-060_decision_en.html)

⁴ For example, suspension of the authorisation to sign new contracts or grant agreements with third parties or suspension of further instalments of funds (if the funds have not been made available at once).

- (9) The Delegatee body shall not contract any of its tasks related to the implementation of the Action nor assign any of its rights and obligations to a third party without the prior written agreement of the Commission. In the case of contracting part of its tasks to a third party, the Delegatee body will remain entirely responsible for ensuring compliance with the provisions of the Agreement and the obligations arising out of it.
- (10) The Delegatee body shall ensure that the conditions imposed upon it under Articles II, III (3), IV, VI, VII, VIII, IX, XVI and XVIII of this Agreement also apply to any third party involved in the implementation of the Action.

ARTICLE III: PERIOD OF EXECUTION OF THE AGREEMENT, SUSPENSION, *FORCE MAJEURE*

- (1) The Agreement shall lay down a period of execution, which shall commence on the entry into force of the Agreement and end on the date specified to this end in Article 2.2 of the Special Conditions.
- (2) The period of execution shall comprise an operational implementation phase, in which the principal activities are carried out. This phase shall commence on the entry into force of the Agreement, as defined in Article 2.1 of the Special Conditions, and end at the latest 24 months before the end of the period of execution. The closure phase, during which final audits and evaluation are carried out and contracts for the implementation of the financing agreement are technically and financially closed shall commence on the date of end of the operational implementation phase and shall end at the latest 24 months after this date, unless otherwise provided for in the Special Conditions.
- (3) Costs related to the principal activities shall be eligible for EU financing only if they have been incurred during the operational implementation phase. Costs related to final audits and evaluation and closure activities shall be eligible up to the end of the closure phase.
- (4) Any balance remaining from the EU contribution will have to be recovered by the Commission, following the provisions of article XVII, at the latest six months after the end of the period of execution.
- (5) In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation phase and correlatively of the period of execution. If the extension is requested by the Delegatee body, the request must be submitted for consideration to the Commission at least one month before the end of the operational implementation phase. In case, where the Commission agrees with the prolongation, the approval has to be given by the Commission to the Delegatee body before the end of the operational implementation phase at the latest.
- (6) In exceptional and duly substantiated cases, and after the end of the operational implementation phase, a request may be made for the extension of the closure phase and correlatively of the period of execution. If the extension is requested by the Delegatee body, the request must be submitted for consideration to the Commission at least one month before the end of the closure phase. In case, where the Commission agrees with the prolongation, the approval has to be given by the Commission to the Delegatee body before the end of the closure phase at the latest.
- (7) No extension can be given beyond the date referred to in article 2.4 of the Special Conditions. Any balance for which procurement contracts or grant agreements have not been signed by the Delegatee body will be recovered by the Commission, following the provisions of article XVII.

- (8) The Delegatee body may suspend implementation of all or part of the Action if circumstances (chiefly *force majeure* as defined in paragraph 11 below) make it too difficult or dangerous to continue. It shall inform the Commission without delay and provide all the necessary details and the foreseeable date of resumption. If the Agreement is not terminated, the Delegatee body shall endeavour to minimise the duration of the suspension and shall resume implementation of the Action once the conditions allow, and shall inform the Commission accordingly.
- (9) The Commission may request the Delegatee body to suspend implementation of all or part of the Action if circumstances (chiefly *force majeure*) make it impossible or too difficult or dangerous to continue. If the Agreement is not terminated, the Delegatee body shall endeavour to minimise the duration of the suspension and shall resume implementation of the Action once the conditions allow, with the prior written approval of the Commission.
- (10) The implementation period of the Agreement is automatically extended by an amount of time equivalent to the duration of the suspension, without prejudice to any amendments to the Agreement which may be necessary to adapt the Action to the new implementing conditions.
- (11) *Force majeure* shall mean any unforeseeable exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of their obligations under the Agreement, was not attributable to error or negligence on their part (or the part of their sub-contractors or staff), and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial problems cannot be invoked as *force majeure* by the defaulting party. 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*. Without prejudice to paragraphs 2 and 3 above, the Party invoking *force majeure* shall notify the other without delay, stating the nature, likely duration and foreseeable effect, and take any measure to minimise possible damage.

ARTICLE IV: LIABILITY

- (1) The Delegatee body shall have sole responsibility for complying with any legal obligation incumbent on it under the terms of this Agreement.
- (2) The Commission cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the Delegatee body's staff or property arising out of the implementation of the Action. The Commission cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
- (3) The Delegatee body shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them in respect of the Agreement or arising out of the implementation of the Action.

ARTICLE V: OBLIGATIONS REGARDING INFORMATION AND REPORTING

- (1) The Delegatee body undertakes to report on the carrying out of the delegated tasks. It shall to that end submit to the Commission the Implementation report(s) and Final report as defined hereafter.

- (2) The Delegatee body has to submit an Implementation report on implementation of the operational phase of the Agreement for every 12 months period as from the entry into force of the Agreement. The Delegatee body shall submit the Implementation report within 60 days after the period covered by such report is over. The Implementation report shall cover all the activities, and shall contain the information on performance of tasks and correct spending of the funds transferred to the Delegatee body under the Agreement. If the operational implementation phase of the Agreement does not exceed 12 months, the Delegatee body submits only the Final report.
- (3) The Implementation report shall include:
- a) summary of how each activity was implemented, including expenditures actually committed and incurred per activity;
 - b) information on the control and audit measures to which the Delegatee body itself has been subjected , as well as measures of control carried out on the beneficiaries of funds (including, as the case may be, contractors). In case where an inspection was carried out a summary inspection report indicating the number and results of on-the-spot checks audits already carried out;
 - c) overall financial statement providing an account of the use of the funds transferred to the Delegatee body ;
 - d) a financial statement providing an account of the use of the financial compensation for the administrative costs incurred, in case where such compensation is foreseen in article 4.3 of the Special Conditions;
 - e) when appropriate, a request for payment.
- (4) The Delegatee body shall submit to the Commission, as soon as possible and at the latest 60 days after the end of the closure phase covered by the Agreement, a Final report summarising the implementation of the various activities covered⁵ and giving an account of the use of the funds transferred to the Delegatee body. If the operational implementation phase of the Agreement is less than 12 months, the Final report shall contain, in addition to the information below, all the information mentioned in paragraph 3 above.
- (5) The Final report shall include:
- (a) the total amount actually paid by the Delegatee body to third parties, the total amount of the financial compensation for the administrative costs and the total of the real costs of the technical assistance provided by the Delegatee body to third parties thereby enabling to determine the total balance to be recovered by the Commission from the Delegatee body;
 - (b) the control and audit measures to which the Delegatee body itself has been or will be subjected ;⁶

⁵ Results broken down by operation, in case where the Action covers more than one operation.

⁶ Approval of the accounts under the conditions laid down by the articles of association of the Delegatee body shall be deemed equivalent to an inspection and audit report.

- (c) annexes: the following annexes shall be attached to the final report:
 - (i) a summary table setting out the final amount of each grant or procurement contract and the reference of the related implementation reports for each operation; the Implementation reports as referred to in paragraph 3 are deemed to constitute an annex of the Final report,
 - (ii) a summary inspection report indicating the number and results of on-the-spot checks and ex post audits carried out by the Delegatee body on third parties (including grant beneficiaries and contractors), accompanied, if appropriate, by current information on measures taken to remedy any identified problems;
- (d) description of the results generated by each operation and their impact in relation to the objectives of the Action;
- (6) The Commission may request additional information related to content of reports or requests additional documents. The Delegatee body shall supply the requested information / documents within 30 days of the request.
- (7) Any report will be deemed approved by the Commission 45 days after its receipt, accompanied by a request for payment conforming to the model attached as Annex V, if the Commission has not reacted within this period of time.

If the Commission does not intend to approve a report, as submitted, it shall revert to the Delegatee body with a request explaining the reason and specifying the additional information it requires within said 45 days from the receipt of a complete report and its annexes. The deadline for approving the report mentioned above shall thus be suspended pending the receipt of the requested information.

Any request for payment conforming to the model attached as Annex V will be deemed approved by the Commission 45 days after the approval of the report by the Commission as set forth in the first paragraph.

If the Commission deems that a payment request cannot be met, it shall revert to the Delegatee body with a request explaining the reason and specifying the additional information it requires within said 45 days from the approval of the report. This payment period shall thus be suspended pending the registration of a properly formulated payment request.

- (8) Approval of the report and/or its annexes shall not imply recognition of their regularity, or of the authenticity, completeness and correctness of the declarations and information they contain.
- (9) The reports shall be provided for in Euro and may be drawn from financial statements denominated in other currencies pursuant to the Delegatee body's requirements. In such case and for the purpose of reporting, actual expenditure shall be converted into Euro using the exchange rate referred to in the paragraph below.

Any conversion incurred in the performance of the Agreement shall be calculated based on the rate applied by the European Central Bank at the day, when the payment is being executed, to its main refinancing transaction in euros (€), as published in the Infoeuro.

ARTICLE VI: CONFLICT OF INTERESTS

- (1) The Delegatee body undertakes to take all necessary precautions to avoid conflicts of interests and shall inform the Commission without delay of any situation constituting or likely to lead to any such conflict.
- (2) There is a conflict of interests where the impartial and objective exercise of the functions of any person under this Agreement is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another party.

ARTICLE VII: VISIBILITY AND EX-POST PUBLICATION

- (1) Unless the Commission requests or agrees otherwise, the Delegatee body shall take all appropriate measures to publicise the fact that an Action has received funding from the European Union. Information given to the press, the beneficiaries of funds, 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 in an appropriate way the European logo (twelve yellow stars on a blue background). Such measures must comply with the relevant rules on the visibility of external actions laid down and published by the Commission.
- (2) For each grant and each procurement contract financed by the funds transferred, the Delegatee body shall be required to publish annually the following, at least on its Internet site:
 - a) for grants: title of the Action, name, address and nationality of the beneficiary and amount of the grant ;
 - b) for contracts: title and type of the contract name, address and nationality of the contractor, and amount of the contract.

In case part of the tasks mentioned in Annex I of the Agreement is carried out by the Delegatee body's implementing partners, the obligation concerning the ex-post publication, as referred to in this article, shall apply to these implementing partners.

The Delegatee body shall provide the address of the website where this information can be found and shall authorise the Commission to publish such address in the appropriate internet site of the Commission.

- (3) In cases where in the framework of the Action equipment or vehicles or major supplies have been purchased using funds transferred by the Commission, the appropriate acknowledgement on such vehicles, equipment or major supplies, including display of the European logo (twelve yellow stars on a blue background), has to be shown.
- (4) The size and prominence of the acknowledgement and European Union logo shall be clearly visible in a manner that will not create any confusion regarding the identification of the Action as an activity of the Delegatee body.
- (5) All publications by the Delegatee body pertaining to Action that have received funding from the European Union, in whatever form and whatever medium, including the internet, shall carry the following or a similar disclaimer: "This document has been 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."

- (6) Publicity pertaining to European Union contributions shall quote these contributions in Euro, in parenthesis if necessary.
- (7) The Delegatee body accepts that the Commission publish in any form and medium, including on its websites the name and address of the Delegatee body, the purpose of the contribution as well as the amount contributed and the percentage of co financing.
- (8) The Delegatee body accepts that the Commission can forward the information on grant(s) and procurement contracts awarded under this Agreement as well as the information on the Delegatee body itself to the European Union budgetary authority.

ARTICLE VIII: OWNERSHIP OF RESULT

- (1) Unless stipulated otherwise, the equipment, vehicles and supplies provided within the Action carried out in the framework of the Agreement shall be transferred to local authorities or implementing partners (excluding commercial contractors) or to the final recipients of the Action by the end of the Action. The documentary proof of those transfers shall be presented with the Final report in accordance with article V.
- (2) Without prejudice to paragraph 1, the Delegatee body shall act to ensure that the third-party concerned (implementing partner, grant beneficiary or contractor) grants the Commission the right to make free use of the results of the Action without charge and as it deems fit, without prejudice of the confidentiality obligations set forth in Article IX hereafter and of in full respect of existing industrial and intellectual property rights (including copyrights).

ARTICLE IX: CONFIDENTIALITY

- (1) The Commission and the Delegatee body undertake to preserve the confidentiality of any document, information or other material directly related to the performance of the Agreements that is duly classified as confidential. The Commission shall have access to all those documents, information or other material upon request.
- (2) The parties shall remain bound by this obligation for at least 7 years after the period of execution as referred to in article 2 of the Special Conditions.

ARTICLE X: TERMINATION OF THE AGREEMENT

- (1) If, at any time, either Party believes that the purposes 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 two months' written notice. In this event, the Delegatee body shall be entitled to use the remaining funds only for the part of Programme/project carried out, and to reimbursement of commitments entered into by the Delegatee body before the written notice on termination was submitted to other party and which the Delegatee body cannot reasonably terminate on legal grounds. The funding for activities not yet performed or for the unperformed part of certain activities shall be recovered by the Commission, following the provisions of article XVII.
- (2) The Commission may also decide to terminate the Agreement in the following circumstances:
 - (a) in the event any legal, technical or organisational change substantially affecting the conditions and obligations under Articles I and II above;
 - (b) if the Delegatee body fails to fulfil a substantial obligation incumbent on it under the terms of the Agreement, including their annexes;

- (c) in the event of *force majeure*, or if an activity has been suspended as a result of exceptional circumstances, notified in accordance with Article III;
- (d) if the Delegatee body is declared bankrupt, is being wound up, or is subject to any other similar proceedings;
- (e) if the Delegatee body is guilty of grave professional misconduct proven by any justified means;
- (f) if the Delegatee body is guilty of misrepresentation or submits reports inconsistent with reality to obtain funding or to keep the funds made available to it without authorisation;
- (g) if the Delegatee body has intentionally or by negligence committed a substantial irregularity in performing the Agreement and in the event of fraud, corruption or any other illegal activity from the Delegatee body to the detriment of the EU's financial interests. A substantial irregularity consists of any infringement of a provision of an agreement or regulation resulting from an act or an omission from the Delegatee body which causes or might cause a loss to the funds transferred under the Agreement.

The Commission will enter into discussions with the Delegatee body and, failing to find a proper solution within one month, may terminate the Agreement, without prior notice and without paying compensation of any kind to the Delegatee body. In that event the Commission may demand full or partial repayment of any amounts unduly paid, after allowing the Delegatee body to submit its observations.

- (3) A procurement contract or grant agreement which has not given rise to any payment within three years of its signature shall be automatically terminated and its funding shall be recovered by the Commission without delay, following the provisions of article XVII.

ARTICLE XI: AMENDMENT OF THE AGREEMENT

- (1) Any request of modification of the Agreement, including the annexes thereto, or any change having in impact in the implementation of the Agreement, such as the extension of the period of execution of the Agreement or the suspension of the implementation of all or part of the Action as referred to in article III above, shall be submitted by one party to another in writing.
- (2) Unless otherwise provided for in the Agreement, where the request for an amendment is submitted by the Delegatee body, it shall submit that request to the Commission one month before the amendment is intended to enter into force, unless there are special circumstances duly substantiated by the Delegatee body and accepted by the Commission
- (3) Any change to the Agreement shall be done through a written addendum only.
- (4) Where a modification to the Description of the Action and/or the Budget does not affect the basic purpose of the Action and the financial impact is limited to a transfer within a single budget heading, including cancellation or introduction of an item, or a transfer between budget headings involving a variation (as the case may be in cumulative terms) of 15 % or less of the amount originally entered (or as modified by a formal amendment) in relation to each concerned heading for eligible costs, the Delegatee body may amend the Budget and shall inform the Commission accordingly in writing. This method may not be used to amend headings for administrative costs.

- (5) Changes of address and changes of bank account may simply be notified in writing to the Commission. Where applicable, changes of bank account must be specified in the request for payment, attached as Annex V, using the Commission's financial identification form.

ARTICLE XII: APPLICABLE LAW

- (1) This Agreement is governed by EU law, complemented if necessary by the relevant provisions of the Belgian law.
- (2) The Parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or fulfilment of the Agreement, including its existence, validity or termination. In default of amicable settlement, any Party may refer the matter to the Court of First Instance of the European Union and, in the event of appeal, the Court of Justice of the European Union.

FINANCIAL PROVISIONS

ARTICLE XIII: FINANCIAL GUARANTEE

- (1) When required by Article 5.5 of the Special conditions, the Delegatee body shall furnish an adequate financial guarantee, in particular as regards full recovery of amount due to the Commission. The guarantor shall stand as first call guarantor and shall not require the Commission to have recourse against the Delegatee body.
- (2) This financial guarantee shall be proportional to the amount transferred to the Delegatee body. It shall remain in force until the date of approval of the Delegatee body's Final report by the Commission that should not be unreasonably withheld.
- (3) Where the guarantee is not furnished by the public authority, the Commission undertakes to release it within 30 days following the approval of the Final report as stipulated in Article V paragraph 7.

ARTICLE XIV: TRANSFER OF FUNDS

- (1) Transfers of funds between the Delegatee body and the Commission shall be made in Euro, both for funding transferred to the Delegatee body by the Commission and for the recovery by the Commission of any outstanding balances not used by the Delegatee body.
- (2) Payments by the Commission and the Delegatee body shall be deemed to be made on the date on which they are debited from their respective accounts.
- (3) Amounts which the Delegatee body has not yet used remain the property of the European Union or the European Development Fund.
- (4) Payment procedures as set forth in Article 5 of the Special Conditions shall follow one of the options below:

Option 1: Transfer of funds between the Commission and the Delegatee body shall be made in one payment within 45 days as from the signature of the Agreement. .

Option 2: Transfer of funds between the Commission and the Delegatee body shall be subject to several instalments.

The Commission will provide a payment of pre-financing of 100% of that part of the forecast budget for the first 12 months of an Action which is being financed by it within 45 days as from the signature of the Agreement.

Each further instalment will constitute a new pre-financing of 100% of that part of the budget for the subsequent 12 months period (or of the remaining period if shorter as regards the last instalment of pre-financing). Such pre-financing shall be paid by the Commission within 45 days following its approval of the Implementation report and accompanied by a request for payments from the Delegatee body conforming to the model attached as Annex V, and referred to in the Article V, provided that at least 70% of the immediately preceding payment (and 100% of all eventual previous payments) has been incurred as proven by the relevant report. For the purpose of this provision, the funds are considered incurred when they are subject of a formal legal commitment between the Delegatee body and the third party.

The Commission will pay the balance within 45 days of approving the Final report as provided for in Article V hereof.

ARTICLE XV: BANK ACCOUNT AND INTERESTS FOR PRIVATE BODIES OR NON EU MEMBER STATES PUBLIC BODIES

- (1) In case where the Delegatee body is a body governed by the private law or in case where it belongs to a State not being a member of the European Union, it shall open a separate bank account kept in EUR, if possible bearing interest or offering identifiable equivalent advantages (or a sub-account enabling the interest or advantages to be identified). This account or sub-account should enable:
 - identification of funds transferred by the Commission,
 - identification and monitoring of operations with third parties,
 - separation of operations carried out under the Agreement from those relating to other missions or activities of the Delegatee body.
- (2) In the event the bank account opened by the Delegatee body cannot bear interest, such account has to enable:
 - identification of funds transferred by the Commission,
 - identification and monitoring of operations with third parties,
 - separation of operations carried out under the Agreement from those relating to other missions or activities of the Delegatee body.
- (3) Any interest or equivalent benefits accruing from the funds transferred by the Commission to the Delegatee body shall be mentioned in the interim and Final reports referred to in article IV.
- (4) Unless otherwise provided for in the applicable regulation, any interest or equivalent benefits accruing from funds equal or below EUR 250 000 transferred by the Commission to the Delegatee body shall not be due to the Commission and may be used by the Delegatee body for the purpose of the Agreement as referred to in article 1 of the Special Conditions.

- (5) Any interest or equivalent benefits accruing from the funds of more than EUR 250 000 transferred by the Commission to the Delegatee body shall be recovered by the Commission following the provisions of article XVII, at the latest by the end of the period of execution referred to in article 2.3 of the Special Conditions.
- (6) Unless otherwise provided for in the applicable regulation, in case of crisis management actions recognized as such by the Commission, any interest accruing from funds equal or below EUR 750 000 transferred by the Commission to the Delegatee body shall not be due to the Commission and may be used by the Delegatee body for the purpose of the Agreement as referred to in article 1 of the Special Conditions.
- (7) In case of crisis management actions recognized as such by the Commission, any interest or equivalent benefits accruing from the funds of more than EUR 750 000 transferred by the Commission to the Delegatee body shall be recovered by the Commission following the provisions of article XVII below. Unless otherwise provided for in the applicable regulation, the Commission shall recover said interests by the end of each financial year.

ARTICLE XVI: FINAL AMOUNT

- (1) The final amount of funds used by the Delegatee body is determined with the Commission's approval of the Delegatee body's Final report provided for in Article V (7) above.
- (2) The total final amount shall not exceed the maximum EC contribution laid down in the article 4.2 of the Special Conditions.
- (3) The final amount of funds used by the Delegatee body is determined:
 - a) in the case of grants, on the basis of eligible costs identified according to the applicable rules on grants referred to in article 3.1 of the Special Conditions,
 - b) in the case of procurement contracts, on the basis of invoices received from contractors,
 - c) in case of financial compensation for technical assistance provided by the Delegatee body to third parties by its own means on the basis of supporting evidence as specified hereunder;
 - d) in case of financial compensation for administrative costs, on the basis of agreed percentage provided for in article 4.3 of the Special Conditions.

To be considered eligible under this Agreement, costs mentioned in subparagraphs a), b) and c) must:

- be necessary for carrying out the Action, be provided for specifically in this Agreement and comply with the principles of sound financial management;
- have actually been incurred during the period of execution as defined in article 2.2 of the Special Conditions, whatever the time of actual disbursement by the Delegatee body;
- be recorded in the Delegatee body's accounts, be identifiable, backed by originals of supporting evidence (as the case may be in electronic form), and verifiable pursuant to the provisions of article XVIII(3).

- (4) When the Commission approves the Final report, it shall close the accounts and determine the final amount of funds used by the Delegatee body and any outstanding balance to be recovered.
- (5) The final amount is the difference between the total amount of funds transferred by the Commission to the Delegatee body and the total amount the Delegatee body has paid to third parties (implementing partner, grant beneficiaries or contractors), account being taken of the co-financing, if any according to article 4 of the Special Conditions, the financial compensation for the administrative costs as referred in article 4.3 of the Special conditions, and the financial compensation for technical assistance provided by the Delegatee body, as the case may be. The amount paid for technical assistance provided by the Delegatee body whose actual use has not been duly reported in the reports referred to in article V, shall be recovered by the Commission.
- (6) Pursuant to the provisions of Article V(7) hereof, the Commission shall inform the Delegatee body of the approval of the Final report, indicating, where appropriate, the amount it intends to recover. It shall give the Delegatee body 30 days to submit any observations it may have. If, at the end of this period, the Delegatee body has not submitted any observations regarding the above calculation and/or the basis of the amount to be recovered, the Commission shall issue a recovery order which the Delegatee body shall undertake to carry out under the conditions laid down and by the deadline set in Article XVII.
- (7) Any amount paid in excess by the Commission to the Delegatee body shall be recovered pursuant to the provisions of Article XVII hereunder.

ARTICLE XVII: RECOVERY

- (1) Where recovery is justified, the Delegatee body undertakes to repay to the Commission within 45 days of the issuing of the debit note, the latter being the letter by which the Commission requests the amount owed by the Delegatee body, any amounts paid in excess of the final amount due.
- (2) If the Delegatee body fails to repay by the due date, the sum due shall bear interest at the rate applied by the European Central Bank for its main refinancing operations in euros (€) plus three and a half points. The interest shall be payable for the period elapsing from the day following expiry of the time limit for payment up to the day of payment. Any partial payment shall first cover the interest.
- (3) Amounts to be repaid to the Commission may be offset against amounts of any kind due to the Delegatee body, after informing it accordingly. The Delegatee body's prior consent is not required. This shall not affect the Parties' option to agree on payment in instalments.
- (4) Bank charges incurred by the repayment of amounts due to the Commission shall be borne entirely by the Delegatee body.

ARTICLE XVIII: EVALUATION, TECHNICAL AND FINANCIAL CHECKS

- (1) The representatives of the Commission shall be invited to participate in the main monitoring and in the evaluation missions relating to the performance of the Action. The results of such missions shall be reported to the Commission by the Delegatee body.

- (2) This is without prejudice to any evaluation mission which the Commission as a donor may wish to perform. Evaluation missions by representatives of the Commission should be planned and completed in a collaborative manner between the Delegatee body and the Commission's representatives, keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement. These missions are to be planned ahead and procedural matters are to be agreed upon by the Commission and the Delegatee body in advance. The Commission will make a draft of its report drafted during the Evaluation mission available to the Delegatee body for comments prior to final issuance.
- (3) The Delegatee body recognises the right of the Commission, OLAF and the Court of Auditors of the European Union, or to any other representative designated by the Commission to conduct documentary and on-the-spot checks on the use made of EU funding under this Agreement (including procedures for the award of procurement contracts and grants) and to carry out a full audit, if necessary, on the basis of supporting accounting documents and any other documents relating to the financing of the Action, throughout the duration of the Agreement and for a minimum period of seven years from the date of approval of the Final report as set forth in Article V (7) above. Consequently, the Delegatee body shall keep at the disposal of the Commission, OLAF, the Court of Auditors of the European Union, and any other qualified external body chosen by the Commission to conduct such checks all original documents or, in exceptional and duly justified cases, certified copies of original documents relating to the Agreement and any procurement contracts or grants agreement concluded under this Agreement for a minimum period of seven years from the date of approval of the Final report and up to the date of the prescription of any dispute action pursuant to the applicable law governing the Agreement and the aforesaid contracts or grants.
- (4) The Delegatee body also agrees that OLAF may carry out on-the-spot checks and verifications in accordance with the procedures laid down by EU law for the protection of the financial interests of the European Union against fraud and other irregularities.
- (5) To that end, the Delegatee body undertakes to grant officials of the Commission, OLAF and the Court of Auditors of the European Union and their authorised agents access to sites and premises at which operations financed under the Agreement are carried out, including their computer systems, and to any documents and computerised data concerning the technical and financial management of those operations, and to take every appropriate measure to facilitate their work. Access by authorised agents of the Commission, OLAF and the Court of Auditors of the European Union shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject. Documents must be accessible and filed in a manner permitting easy inspection, the Beneficiary being bound to inform the Commission, OLAF or the Court of Auditors of the European Union of the exact location at which they are kept.
- (6) The Delegatee body shall be notified of on-the-spot missions by agents appointed by the Commission, OLAF or the Court of Auditors.
- (7) The Delegatee body shall forward to the Commission and more particularly to OLAF without delay any information relating to suspected and actual cases of fraud or corruption or any other illegal activity.