ANNEX II
General conditions applicable to European Union-financed grant contracts for external actions

CONTENTS

Explanations of the terms used throughout these general conditions may be found in the 'Glossary of terms', Annex A1a to the practical guide.

In case of operating grants, the term 'action' should be understood as 'work programme'.

The term 'coordinator' refers to the beneficiary identified as the coordinator in the special conditions.

The term 'beneficiary(ies)' refers collectively to all beneficiaries, including the coordinator, of the action. When there is only one beneficiary of the action, the terms beneficiary(ies) and coordinator should both be understood as referring to the only beneficiary of the action.

The term 'party(ies) to this contract' refers to the party signatory of this contract (i.e. the beneficiary(ies) and the contracting authority).

All references to 'days' in this contract are to calendar days, unless otherwise specified.

Table of content

Article 1 - General provisions 3
Article 2 - Obligation to provide financial and narrative reports 5
Article 3 - Liability 6
Article 4 - Conflict of interests and code of conduct 6
Article 5 - Confidentiality 8
Article 6 - Visibility 8
Article 7 - Ownership/use of results and assets 8
Article 8 – monitoring and Evaluation of the action 9
Article 9 — Amendment of the contract. 10
Article 10 — Implementation 10
Article 11 – Extension and suspension 11
Article 12 — Termination of the contract 13
Article 13 — Applicable law and dispute settlement 15
Article 14 — Eligible costs 16
Article 15 — Payment and interest on late payment 20
Article 16 — Accounts and technical and financial checks 25
Article 17 — Final amount of the grant 27
Article 18 — Recovery 28

GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE 1 - GENERAL PROVISIONS

General principles

1.1. The beneficiary(ies) and the contracting authority are the only parties to this contract. Where the European Commission is not the contracting authority, it is not party to this contract, which confers on the European Commission only the rights and obligations explicitly mentioned in this contract.

1.2. This contract and the payments attached to it may not be assigned to a third party in any manner whatsoever without the prior written consent of the contracting authority.

Processing of personal data by the Commission

1.3. Any personal data included in the grant contract must be processed by the Commission in accordance with Regulation (EU) No 2018/1725.

Such data must be processed by the data controller identified in the special conditions solely for implementing, managing and monitoring the grant contract or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article 16 of these general conditions.

The beneficiaries have the right to access, rectify or erase their own personal data and the right to restrict the processing of their personal data or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, they must send any queries about the processing of their personal data to the data controller identified in the special conditions.

The beneficiaries may have recourse at any time to the European Data Protection Supervisor.

Processing of personal data by the beneficiaries

1.4. The beneficiaries must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

The beneficiaries may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the grant contract. The beneficiary must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.

The beneficiaries must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned. This is in order to ensure, as appropriate:

(a) the pseudonymisation and encryption of personal data;

(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

(c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

(e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

Role of the beneficiary(ies)

1.5. The beneficiary(ies) shall:

a) carry out the action jointly and severally vis-a-vis the contracting authority 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 contract.

   To this purpose, the beneficiary(ies) shall implement the action with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field.

b) be responsible for complying with any obligation incumbent on them from this contract jointly or individually;

c) forward to the coordinator the data needed to draw up the reports, financial statements and other information or documents required by this contract and the annexes thereto, as well as any information needed in the event of audits, checks, monitoring or evaluations, as described in Article 16;

d) ensure that all information to be provided and requests made to the contracting authority are sent via the coordinator;

e) agree upon appropriate internal arrangements for the internal coordination and representation of the beneficiary(ies) vis-a-vis the contracting authority for any matter concerning this contract, consistent with the provisions of this contract and in compliance with the applicable legislation(s).

1.5 bis. Grant beneficiaries and contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or trainings and recipients of financial support to third parties, in the lists of EU restrictive measures.

Role of the coordinator

1.6. The coordinator shall:

a) monitor that the action is implemented in accordance with this contract and ensure coordination with all beneficiary(ies) in the implementation of the action;

b) be the intermediary for all communications between the beneficiary(ies) and the contracting authority;

c) be responsible for supplying all documents and information to the contracting authority which may be required under this contract, in particular in relation to the narrative reports and the requests for payment. Where information from the beneficiary(ies) is required, the coordinator shall be responsible for obtaining, verifying and consolidating this information before passing it on to the contracting authority.

   Any information given, as well as any request made by the coordinator to the contracting authority, shall be deemed to have been given in agreement with all beneficiary(ies);

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 beneficiary(ies), as well as, of any change in the name, address or legal representative of any of the beneficiary(ies);

f) be responsible in the event of audits, checks, monitoring or evaluations, as described in Article 16 for providing all the necessary documents, including the accounts of the beneficiary(ies), copies of the most relevant supporting documents and signed copies of any contract concluded according to Article 10;

g) have full financial responsibility for ensuring that the action is implemented in accordance with this contract;

h) make the appropriate arrangements for providing the financial guarantee, when requested, under the provisions of Article 4.1 of the special conditions;

i) establish the payment requests in accordance with the contract;

j) be the sole recipient, on behalf of all of the beneficiary(ies), of the payments of the contracting authority. The coordinator shall ensure that the appropriate payments are then made to the beneficiary(ies) without unjustified delay;

k) not delegate or subcontract any, or part of, these tasks to the beneficiary(ies) or other entities.

ARTICLE 2 - OBLIGATION TO PROVIDE FINANCIAL AND NARRATIVE REPORTS

2.1. The beneficiary(ies) shall provide the contracting authority with all required information on the implementation of the action. The report shall describe the implementation of the action according to the activities envisaged , 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 or employed and the budget details for the action. The level of detail in any report should match that of the description of the action and of the budget for the action. The coordinator shall collect all the necessary information and draw up consolidated interim and final reports. These reports shall:

a) cover the action as a whole, regardless of which part of it is financed by the contracting authority;

b) consist of a narrative and a financial report drafted using the templates provided in Annex VI;

c) provide a full account of all aspects of the action's implementation for the period covered, including in case of simplified cost options the qualitative and quantitative information needed to demonstrate the fulfilment of the conditions for reimbursement established in this contract;

d) include the current results within an updated table based on the logical framework matrix including the results achieved by the action (impact, outcomes or outputs) as measured by their corresponding indicators; agreed baselines and targets, and relevant sources of verification;

e) determine if the intervention logic is still valid and propose any relevant modification including regarding the logical framework matrix;

f) be drafted in the currency and language of this contract;

g) include any update on the communication plan as provided by Article 6.2;

h) include any relevant reports, publications, press releases and updates related to the action.

2.2. Additionally the final report shall:

a) cover any period not covered by the previous reports;

b) include the proofs of the transfers of ownership as referred to in Article 7.6.

2.3. The special conditions may set out additional reporting requirements.

2.4. The contracting authority may request additional information at any time. The coordinator shall provide this information within 30 days of the request, in the language of the contract.

2.5. Reports shall be submitted with the payment requests, according to Article 15. If the coordinator fails to provide any report or fails to provide any additional information requested by the contracting authority within the set deadline without an acceptable and written explanation of the reasons, the contracting authority may terminate this contract according to Article 12.2 (a) and (f).

ARTICLE 3 - LIABILITY

3.1. The contracting authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the beneficiary(ies) while the action is being carried out or as a consequence of the action. The contracting authority cannot, therefore, accept any claim for compensation or increases in payment in connection with such damage or injury.

3.2. The beneficiary(ies) shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the action is being carried out or as a consequence of the action. The beneficiary(ies) shall discharge the contracting authority of all liability arising from any claim or action brought as a result of an infringement of rules or regulations by the beneficiary(ies) or the beneficiary(ies)'s employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights. For the purpose of this Article 3 employees of the beneficiary(ies) shall be considered third parties.

ARTICLE 4 - CONFLICT OF INTERESTS AND CODE OF CONDUCT

4.1. The beneficiary(ies) shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of this contract. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

4.2. Any conflict of interests which may arise during performance of this contract must be notified in writing to the contracting authority without delay. In the event of such conflict, the coordinator shall immediately take all necessary steps to resolve it.

4.3. The contracting authority reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken if necessary.

4.4. The beneficiary(ies) shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under this contract, the beneficiary(ies) shall replace, immediately and without compensation from the contracting authority, any member of its staff in such a situation.

4.5. The beneficiary (ies) shall at all-time act impartially and as a faithful adviser in accordance with the code of conduct of its profession as well as with appropriate discretion. It shall refrain from making any public statements concerning the action or the services without the prior approval of the contracting authority. It shall not commit the contracting authority in any way whatsoever without its prior consent, and shall make this obligation clear to third parties.

4.6. Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited. The beneficiary (ies) shall also inform the contracting authority of any breach of ethical standards or code of conduct as set in the present Article. In case the beneficiary (ies) is aware of any violations of the abovementioned standards it shall report in writing within 30 days to the contracting authority

4.7. The beneficiary(ies) and its/their staff shall respect human rights, applicable data protection rules and environmental legislation applicable in the country(ies) where the action is taking place and internationally agreed core labour standards, e.g. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.

4.8. The beneficiary(ies) or any related person shall not abuse of its entrusted power for private gain. The beneficiary(ies) or any of its subcontractors, agents or staff shall not receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from performing any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The beneficiary(ies) shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption.

4.9. The payments to the beneficiary(ies) under the contract shall constitute the only income or benefit it may derive in connection with the contract, with the exception of revenue generating activities. The beneficiary(ies) and its/their staff must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.

4.10. The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The contracting authority and the European Commission may carry out documentary or on-the-spot checks they deem necessary to find evidence in case of suspected unusual commercial expenses

4.11. The respect of the code of conduct set out in the present Article constitutes a contractual obligation. Failure to comply with the code of conduct is always deemed to be a breach of the contract under Article 12 of the General Conditions. In addition, failure to comply with the provision set out in the present Article can be qualified as grave professional misconduct that may lead either to suspension or termination of the contract, without prejudice to the application of administrative sanctions, including exclusion from participation in future contract award procedures.

ARTICLE 5 - CONFIDENTIALITY

5.1. Subject to Article 16, the contracting authority and the beneficiary(ies) undertake to preserve the confidentiality of any information, notwithstanding its form, disclosed in writing or orally in relation to the implementation of this contract and identified in writing as confidential until at least 5 years after the payment of the balance.

5.2. The beneficiary(ies) shall not use confidential information for any aim other than fulfilling their obligations under this contract unless otherwise agreed with the contracting authority.

5.3. 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.

ARTICLE 6 - VISIBILITY

6.1. Unless the European Commission agrees or requests otherwise, the beneficiary(ies) shall take all necessary steps to publicise the fact that the European Union has financed or co-financed the action. Such measures shall comply with the Communication and Visibility Requirements for European Union External Actions laid down and published by the European Commission, that can be found at https://ec.europa.eu/europeaid/sites/devco/files/communication-visibility-requirements-2018_en.pdf (for actions within DG DEVCO's remit) and at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/visibility_requirements-near_english.pdf (for actions within DG NEAR's remit) or with any other guidelines agreed between the European Commission and the beneficiary(ies).

6.2. The coordinator shall submit a communication plan for the approval of the European Commission and report on its implementation in accordance with Article 2.

6.3. In particular, the beneficiary(ies) shall mention the action and the European Union's financial contribution in information given to the final recipients of the action, in its internal and annual reports, and in any dealings with the media. It shall display the European Union logo wherever appropriate.

6.4. Any notice or publication by the beneficiary(ies) concerning the action, including those given at conferences or seminars, shall specify that the action has received European Union funding. Any publication by the beneficiary(ies), in whatever form and by whatever medium, including the internet, shall include the following statement: 'This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of < beneficiary(ies)'s name > and can under no circumstances be regarded as reflecting the position of the European Union.'

6.5. The beneficiary(ies) authorises the contracting authority and the European Commission (where it is not the contracting authority) to publish its name and address, nationality, the purpose of the grant, duration and location as well as the maximum amount of the grant and the rate of funding of the action's costs, as laid down in Article 3 of the special conditions. Derogation from publication of this information may be granted if it could endanger the beneficiary(ies) or harm their interests.

ARTICLE 7 - OWNERSHIP/USE OF RESULTS AND ASSETS

7.1. Unless otherwise stipulated in the special conditions, ownership of, and title and intellectual and industrial property rights to, the action's results, reports and other documents relating to it will be vested in the beneficiary(ies).

7.2. Without prejudice to Article 7.1, the beneficiary(ies) grant the contracting authority (and the European Commission where it is not this contracting authority) the right to use freely and as it sees fit, and in particular, to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the action whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.

7.3. The beneficiary(ies) shall ensure that it has all rights to use any pre-existing intellectual property rights necessary to implement this contract.

7.4. In case natural, recognizable persons are depicted in a photograph or film, the coordinator shall, in the final report to the contracting authority, submit a statement of these persons giving their permissions for the described use of their images. The above does not refer to photographs taken or films shot in public places where random members of the public are identifiable only hypothetically and to public persons acting in their public activities.

7.5. Unless otherwise clearly specified in the description of the action in Annex I, the equipment, vehicles and supplies paid for by the budget for the action shall be transferred to the final beneficiaries of the action, at the latest when submitting the final report.

If there are no final beneficiaries of the action to whom the equipment, vehicles and supplies can be transferred, the beneficiary(ies) may transfer these items to:

- local authorities
- local beneficiary(ies)
- local affiliated entiy(ies)
- another action funded by the European Union
- or, exceptionally, retain ownership of these items.

In such cases, the coordinator shall submit a justified written request for authorisation to the contracting authority, 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 or result in a profit for the beneficiary(ies).

7.6 Copies of the proofs of transfer of any equipment and vehicles for which the purchase cost was more than EUR 5000 per item, shall be attached to the final report. Proofs of transfer of equipment and vehicles whose purchase cost was less than EUR 5000 per item shall be kept by the beneficiary(ies) for control purposes.

ARTICLE 8 – MONITORING AND EVALUATION OF THE ACTION

8.1. Annex I shall describe in detail the monitoring and evaluation arrangements that the beneficiary(ies) will put in place.

8.2. If the European Commission carries out an interim or ex post evaluation or a monitoring exercise, the coordinator shall undertake to provide it and/or the persons authorised by it with the documents or information necessary for the evaluation or monitoring exercise.

Representatives of the European Commission shall be invited to participate in the main monitoring and in the evaluation exercises relating to the performance of the action performed by the beneficiary(ies). The European Commission shall be invited to comment the evaluation(s) terms of reference before the exercise is launched as well as the draft report(s) before they are finalised.

8.3. If either the beneficiary(ies) or the European Commission carries out or commissions an evaluation or monitoring exercise in the course of the action, it shall provide the other with a copy of the related report. All the evaluation and monitoring reports, including final values for each of the indicators in the logical framework, shall be submitted to the European Commission with the final narrative report (annex VI).

ARTICLE 9 — AMENDMENT OF THE CONTRACT.

9.1. Any amendment to this contract, including the annexes thereto, shall be set out in writing. This contract can be modified only during its execution period.

9.2. The amendment may not have the purpose or the effect of making changes to this contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 3.2 of the special conditions shall not be increased.

9.3. If an amendment is requested by the beneficiary(ies), the coordinator shall submit a duly justified request to the contracting authority thirty days before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated and accepted by the contracting authority.

9.4. Where the amendment to the budget does not affect the expected results of the action (i.e. impact, outcomes, outputs), and the financial impact is limited to a transfer between items within the same main budget heading including cancellation or introduction of an item, or a transfer between main budget headings involving a variation of 25% or less of the amount originally entered (or as modified by addendum) in relation to each concerned main heading for eligible costs, the coordinator may amend the budget and must inform the contracting authority accordingly, in writing and at the latest in the next report. This method may not be used to amend the headings for indirect costs, for the contingency reserve, for in-kind contributions or the amounts or rates of simplified cost options defined in the contract.

Changes in Description of the Action and the Logical Framework that affect the expected results (impact, outcomes, outputs) shall be agreed in writing with the contracting authority before the modification takes place. Approved changes must be explained in the next report.

9.5. Changes of address, bank account or auditor may simply be notified by the coordinator. However, in duly substantiated circumstances, the contracting authority may oppose the coordinator's choice.

9.6. The contracting authority reserves the right to require that the auditor referred to in Article 5.2 of the special conditions be replaced if considerations which were unknown when this contract was signed cast doubt on the auditor's independence or professional standards.

ARTICLE 10 — IMPLEMENTATION

Implementation contracts

10.1. If the implementation of the action requires the beneficiary(ies) to procure goods, works or services, it shall respect the contract-award rules and rules of nationality and origin set out in Annex IV of this contract.

10.2. To the extent relevant, the beneficiary(ies) shall ensure that the conditions applicable to them under Articles 3, 4, 6 and 16 of these general conditions are also applicable to contractors awarded an implementation contract.

10.3. The coordinator shall provide in its report to the contracting authority a comprehensive and detailed report on the award and implementation of the contracts awarded under Article 10.1, in accordance with the reporting requirements in section 2 of Annex VI.

Subcontracting

10.4. Beneficiary(ies) may subcontract tasks forming part of the action. If it does so, it must ensure that, in addition to the conditions specified in Article 10.1, 10.2 and 10.3, the following conditions are also complied with:

- subcontracting does not cover core tasks of the action;

- recourse to subcontracting is justified because of the nature of the action and what is necessary for its implementation;

- the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex III;

- [any recourse to subcontracting, if not provided for in Annex I, is communicated by the beneficiary and approved by the Contracting Authority].

Financial support to third parties

10.5. 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 beneficiary(ies) may award financial support if so provided by the special conditions.

10.6. The maximum amount of financial support shall be limited to EUR 60 000 per each third party, except where achieving the objectives of the actions would otherwise be impossible or overly difficult.

10.7. The description of the action, in conformity with the relevant instructions given in this regard by the contracting authority, shall 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 parties recipient of this financial support, including the criteria for determining its exact amount, shall also be specified.

10.8. The coordinator shall provide in its report to the contracting authority a comprehensive and detailed report on the award and implementation of any financial support given. These reports should provide, amongst other, information on the award procedures, on the identities of the recipient of financial support, the amount granted, the results achieved, the problems encountered and solutions found, the activities carried out as well as a timetable of the activities which still need to be carried out.

10.9. To the extent relevant, the beneficiary(ies) shall ensure that the conditions applicable to them under Articles 3, 4.1-4.4, 6 and 16 of these general conditions are also applicable to third parties awarded financial support.

ARTICLE 11 – EXTENSION AND SUSPENSION

Extension

11.1. The coordinator shall inform the contracting authority without delay of any circumstances likely to hamper or delay the implementation of the action. The coordinator may request an extension of the action's implementation period as laid down in Article 2 of the special conditions in accordance with Article 9. The request shall be accompanied by all the supporting evidence needed for its appraisal.

Suspension by the coordinator

11.2. The coordinator may suspend implementation of the action, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. The coordinator shall inform the contracting authority without delay, stating the nature, probable duration and foreseeable effects of the suspension.

11.3. The coordinator or the contracting authority may then terminate this contract in accordance with Article 12.1. If the contract is not terminated, the beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow, informing the contracting authority accordingly.

Suspension by the contracting authority

11.4. The contracting authority may request the beneficiary(ies) to suspend implementation of the action, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. To this purpose, the contracting authority shall inform the coordinator stating the nature and probable duration of the suspension.

11.5. The coordinator or the contracting authority may then terminate this contract in accordance with Article 12.1. If the contract is not terminated, the beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow and after having obtained the approval of the contracting authority.

11.6. The contracting authority may also suspend this contract or the participation of a beneficiary(ies) in this contract if the contracting authority has evidence that, or if, for objective and well justified reasons, the contracting authority deems necessary to verify whether presumably:

a) the grant award procedure or the implementation of the action have been subject to breach of obligations, irregularities or fraud;

b) the beneficiary(ies) have breached any substantial obligation under this contract.

11.7. The coordinator shall provide any requested information, clarification or document within 30 days of receipt of the requests sent by the contracting authority. If, notwithstanding the information, clarification or document provided by the coordinator, the award procedure or the implementation of the grant prove to have been subject to breach of obligations, irregularities, fraud, or breach of obligations, then the contracting authority may terminate this contract according to Article 12(2) h.

Force majeure

11.8. The term force majeure, as used herein covers any unforeseeable events, not within the control of either party to this contract and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosion. A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspending funding under this contract.

11.9. The beneficiary(ies) shall not be held in breach of its contractual obligations if it is prevented from fulfilling them by circumstances of force majeure.

Extension of the implementation period following a suspension.

11.10. In case of suspension according to Articles 11.2, 11.4 and 11.6, the implementation period of the action shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the contract that may be necessary to adapt the action to the new implementing conditions. This Article 11.10 does not apply in case of an operating grant.

ARTICLE 12 — TERMINATION OF THE CONTRACT

Termination in case of force majeure

12.1. In the cases foreseen in Article 11.2 and 11.4, if the coordinator or the contracting authority believes that this contract can no longer be executed effectively or appropriately, it shall duly consult the other. Failing agreement on a solution, the coordinator or the contracting authority may terminate this contract by serving two months written notice, without being required to pay indemnity.

Termination by the contracting authority

12.2. Without prejudice to Article 12.1, in the following circumstances the contracting authority may, after having duly consulted the coordinator, terminate this contract or the participation of any beneficiary(ies) in this contract without any indemnity on its part when:

a) a beneficiary(ies) fails, without justification, to fulfil any substantial obligation incumbent on them individually or collectively by this contract and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of receipt of the letter;

b) a beneficiary(ies) or any person that assumes unlimited liability for the debts of the beneficiary(ies) is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulations relevant to the beneficiary(ies);

c) a beneficiary(ies), or any related entity or person, have been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;

d) it has been established by a final judgment or a final administrative decision or by proof in possession of the contracting authority that the beneficiary(ies) has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose;

e) a change to a beneficiary(ies)'s legal, financial, technical, organisational or ownership situation or the termination of the participation of a beneficiary(ies) substantially affects the implementation of this contract or calls into question the decision awarding the grant;

f) a beneficiary(ies) or any related person, are guilty of misrepresentation in supplying the information required in the award procedure or in the implementation of the action or fail to supply – or fail to supply within the deadlines set under this contract - any information related to the action required by the contracting authority;

g) a beneficiary(ies) has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;

h) the contracting authority has evidence that a beneficiary(ies), or any related entity or person, has committed breach of obligations, irregularities or fraud in the award procedure or in the implementation of the action;

i) a beneficiary(ies) is subject to an administrative penalty referred to in Article 12.8;

j) the contracting authority has evidence that a beneficiary(ies) is subject to a conflict of interests;

k) the European Commission has evidence that a beneficiary(ies) has committed systemic or recurrent errors or irregularities, fraud, or serious breach of obligations under other grants financed by the European Union and awarded to that specific beneficiary(ies) under similar conditions, provided that those errors, irregularities, fraud or serious breach of obligations have a material impact on this grant.

The cases of termination under points (b), (c), (d), (h), (j) and (k) may refer also to persons who are members of the administrative, management or supervisory body of the beneficiary(ies) and/or to persons having powers of representation, decision or control with regard to the beneficiary(ies).

12.3. In the cases referred to in points (c), (f), (h) and (k) above, any related person means any physical person with powers of representation, decision-making or control in relation to the beneficiary(ies). Any related entity means, in particular, any entity which meets the criteria laid down by Article 1 of the Seventh Council Directive No 83/349/EEC of 13 June 1983.

Termination of a beneficiary(ies) participation by the coordinator

12.4. In duly justified cases, the participation of a beneficiary(ies) in this contract may be also terminated by the coordinator. To this purpose, the coordinator 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 beneficiary(ies) 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 contract shall be amended accordingly in conformity with Article 9.

End date

12.5. The payment obligations of the European Union under this contract shall end 18 months after the implementation period laid down in Article 2 of the special conditions, unless this contract is terminated according to Article 12.

The contracting authority shall postpone this end date, so as to be able to fulfil its payment obligations, in all cases where the coordinator has submitted a payment request in accordance with contractual provisions or, in case of dispute, until completion of the dispute settlement procedure provided for in Article 13. The contracting authority shall notify the coordinator of any postponement of the end date.

12.6. This contract will be terminated automatically if it has not given rise to any payment by the contracting authority within two years of its signature.

Effects of termination

12.7. Upon termination of this contract the coordinator shall take all immediate steps to bring the action to a close in a prompt and orderly manner and to reduce further expenditure to a minimum.

Without prejudice to Article 14, the beneficiary(ies) shall be entitled to payment only for the part of the action carried out, excluding costs relating to current commitments that are due to be executed after termination.

To this purpose, the coordinator shall introduce a payment request to the contracting authority within the time limit set by Article 15.2 starting from the date of termination.

In the event of termination according to Article 12.1, the contracting authority may agree to reimburse the unavoidable residual expenditures incurred during the notice period, provided, the first paragraph of this Article 12.7 has been properly executed.

In the cases of termination foreseen in Article 12.2 a), c), d), f), h) and k) the contracting authority may, after having properly consulted the coordinator and depending on the gravity of the failings, request full or partial repayment of amounts unduly paid for the action.

Administrative sanctions

12.8 Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after an adversarial procedure in line with the applicable Financial Regulation, upon the beneficiary(ies) who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has shown significant deficiencies in complying with the main obligations in the performance of the contract or has been circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;

b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years;

12.9 In the situations mentioned in Article 12.8, in addition or in alternative to the sanction of exclusion, the beneficiary(ies) may also be subject to financial penalties up to 10% of the contract value.

12.10 Where the contracting authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the beneficiary(ies) or call on the appropriate guarantee.

12.11 The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the beneficiary(ies).

ARTICLE 13 — APPLICABLE LAW AND DISPUTE SETTLEMENT

13.1. This contract shall be governed by the law of the country of the contracting authority or, where the contracting authority is the European Commission, by the applicable European Union law complemented where necessary by the law of Belgium.

13.2. The parties to this contract shall do everything possible to settle amicably any dispute arising between them during the implementation of this contract. To that end, they shall communicate their positions and any solution that they consider possible in writing, and meet each other at either's request. The coordinator and the contracting authority shall reply to a request sent for an amicable settlement within 30 days. Once this period has expired, or if the attempt to reach amicable settlement has not produced an agreement within 120 days of the first request, the coordinator or the contracting authority may notify the other part that it considers the procedure to have failed.

13.3. In the event of failure to reach an amicable agreement, the dispute may by common agreement of the coordinator and the contracting authority be submitted for conciliation by the European Commission if it is not the contracting authority. 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.

13.4. In the event of failure of the above procedures, each party to this contract may submit the dispute to the courts of the country of the contracting authority, or to the Brussels courts where the contracting authority is the European Commission.

FINANCIAL PROVISIONS

ARTICLE 14 — ELIGIBLE COSTS

Cost eligibility criteria

14.1. Eligible costs are actual costs incurred by the beneficiary(ies) which meet all the following criteria:

a) they are incurred during the implementation of the action as specified in Article 2 of the special conditions. In particular:

(i) Costs relating to services and works shall relate to activities performed during the implementation period. Costs relating to supplies shall relate to delivery and installation of items during the implementation period. Signature of a contract, placing of an order, or entering into any commitment for expenditure within the implementation period for future delivery of services, works or supplies after expiry of the implementation period do not meet this requirement. Cash transfers between the coordinator and/or the other beneficiary(ies) and/or affiliated entity(ies) may not be considered as costs incurred;

(ii) Costs incurred should be paid before the submission of the final reports. They may be paid afterwards, provided they are listed in the final report together with the estimated date of payment;

(iii) An exception is made for costs relating to final reports, including expenditure verification, audit and final evaluation of the action, which may be incurred after the implementation period of the action;

(iv) Procedures to award contracts, as referred to in Article 10, may have been initiated and contracts may be concluded by the beneficiary(ies) before the start of the implementation period of the action, provided the provisions of Annex IV have been respected.

b) they are indicated in the estimated overall budget for the action;

c) they are necessary for the implementation of the action;

d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary(ies) and determined according to the accounting standards and the usual cost accounting practices applicable to the beneficiary(ies);

e) they comply with the requirements of applicable tax and social legislation;

f) they are reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

Eligible direct costs

14.2. Subject to Article 14.1 and, where relevant, to the provisions of Annex IV being respected, the following direct costs of the beneficiary(ies) shall be eligible:

a) the cost of staff assigned to the action, corresponding to actual gross salaries including social security charges and other remuneration-related costs (excluding performance-based bonuses); salaries and costs shall not exceed those normally borne by the beneficiary(ies), unless it is justified by showing that it is essential to carry out the action;

b) travel and subsistence costs for staff and other persons taking part in the action, provided they do not exceed those normally borne by the beneficiary(ies) according to its rules and regulations. In addition, the rates published by the European Commission at the time of contract signature may never be exceeded;

c) purchase costs for equipment (new or used) and supplies specifically dedicated to the purposes of the action, provided that ownership is transferred at the end of the action when required in Article 7.5.

d) depreciation, rental or leasing costs for equipment (new or used) and supplies specifically dedicated to the purposes of the action;

e) rental costs related to project office, when a project office is foreseen, duly justified and described in the description of the action and in the special conditions;

f) costs of consumables;

g) costs of service, supply and work contracts awarded by the beneficiary(ies) for the purposes of the action referred to in Article 10; this includes the costs for mobilising expertise to improve the quality of the logical framework (e.g. accuracy of baselines, monitoring systems, etc.), both at the beginning and during the implementation of the Action.

h) costs deriving directly from the requirements of the contract (dissemination of information, evaluation specific to the action, audits, translation, reproduction, insurance, etc.) including financial service costs (in particular the cost of transfers and financial guarantees where required according to the contract);

i) duties, taxes and charges, including VAT, paid and not recoverable by the beneficiary(ies), unless otherwise provided in the special conditions;

j) overheads, in the case of an operating grant.

Performance-based financing

14.3. The payment of the EU contribution may be partly or entirely linked to the achievement of results measured by reference to previously set milestones or through performance indicators. Such performance-based financing is not subject to other sub-articles of Article 14. The relevant results and the means to measure their achievement shall be clearly described in Annex I.

The amount to be paid per achieved result shall be set out in Annex III. The method to determine the amount to be paid per achieved result shall be clearly described in Annex I, take into account the principle of sound financial management and avoid double-financing of costs.

The organisation shall not be obliged to report on costs linked to the achievement of results. However the organisation shall submit any necessary supporting documents, including where relevant accounting documents, to prove that the results triggering the payment as defined in Annex I and III have been achieved.Articles 15.1 (schedule of payment), 15.7 (expenditure verification), 17.3 (no profit) do not apply to the part of the action supported by way of result-based financing.

Simplified cost options

14.4. In accordance with the detailed provisions in Annex III and Annex K to the Guidelines for grant applicants, eligible costs may also be constituted by any or a combination of the following cost options:

a) unit costs;
b) lump sums;
c) flat-rate financing;

14.5. The methods used by the beneficiary(ies) to determine unit costs, lump sums, flat-rates shall be clearly described and substantiated in Annex III and shall ensure compliance with the principle of co-financing and no double funding. The information used can be based on the beneficiary(ies)'s historical and/or actual accounting and cost accounting data, external information where available and appropriate, statistical data or expert judgment (provided by internally available experts or procured) or other objective information.

Where possible and appropriate, lump sums, unit costs or flat rates shall be determined in such a way as to allow their payment upon achievement of concrete outputs and/or results. If a result entails several outputs or sub-results, it should be broken down into sub budget lines and each output or sub-result should be attributed a portion of the amount stated for the result to allow partial payments in case the result is not achieved.

Costs declared under simplified cost options shall satisfy the eligibility criteria set out in Article 14.1 and 14.2. 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, III and Annex K to the Guidelines for grant applicants.

These costs may not include ineligible costs as referred to in Article 14.11 or costs already declared under another costs item or heading of the budget of this contract.

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.

14.6. Simplified cost options that are not result based shall not be authorized unless they have been ex ante-assessed in accordance with Annex K to the Guidelines for grant applicants.

Contingency reserve

14.7. A reserve for contingencies and/or possible fluctuations in exchange rates not exceeding 5% of the direct eligible costs may be included in the budget for the action, 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 coordinator.

Indirect costs

14.8. The indirect costs for the action are those eligible costs which may not be identified as specific costs directly linked to the implementation of the action and may not be booked to it directly according to the conditions of eligibility in Article 14.1. However, they are incurred by the beneficiary(ies) in connection with the eligible direct costs for the action. They may not include ineligible costs as referred to in Article 14.11 or costs already declared under another costs item or heading of the budget of this contract.

A fixed percentage of the total amount of direct eligible costs of the action not exceeding the percentage laid down in Article 3.3 of the special conditions may be claimed to cover indirect costs for the action. Flat-rate funding 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 amount of simplified cost options.

Indirect costs shall not be eligible under a grant for an action awarded to a beneficiary who already receives an operating grant financed from the European Union budget during the period in question.

This Article 14.8 does not apply in the case of an operating grant.

In kind contributions

14.9. Any contributions in kind, which shall be listed separately in Annex III, do not represent actual expenditure and are not eligible costs. Unless otherwise specified in the special conditions, contributions in kind may not be treated as co-financing by the beneficiary(ies).

If contributions in kind are accepted as co-financing, the beneficiary(ies) shall ensure they comply with national tax and social security rules.

Notwithstanding the above, if the description of the action provides for contributions in kind, such contributions have to be provided.

Volunteers' work

14.10. The value of the work provided by volunteers can be recognised as eligible cost of the action and may be treated as co-financing by the beneficiary(ies).

Where the estimated eligible costs include costs for volunteers' work, the EC contribution shall not exceed the estimated eligible costs other than the costs for volunteers' work.

Beneficiaries shall declare personnel costs for the work carried out by volunteers on the basis of unit costs authorised in accordance with Article 14.4 and following[1].

This type of costs must be presented separately from other eligible costs in the estimated budget. The value of the volunteers' work must always be excluded from the calculation of indirect costs.

[1] The value of such unit costs will be determined by the Commission.

Volunteers' work may comprise up to 50 % of the co-financing, the latter corresponding to the part not financed by the EU contribution.

Non-eligible costs

14.11. The following costs shall not be considered eligible:

a) debts and debt service charges (interest);

b) provisions for losses, debts or potential future liabilities;

c) costs declared by the beneficiary(ies) and financed by another action or work programme receiving a European Union grant (including through the European Development Fund);

d) purchases of land or buildings, except where necessary for the direct implementation of the action and according to the conditions specified in the special conditions; in all cases the ownership shall be transferred in accordance with Article 7.5, at the latest at the end of the action;

e) currency exchange losses;

f) credits to third parties, unless otherwise specified in the special conditions;

g) in kind contributions (except for volunteers' work);

h) salary costs of the personnel of national administrations, unless 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;

i) performance-based bonuses included in costs of staff.

Affiliated entities

14.12. Where the special conditions contain a provision on entities affiliated to a beneficiary, costs incurred by such entity may be eligible, provided that they satisfy the same conditions under Articles 14 and 16, and that the beneficiary ensures that Articles 3, 4, 5, 6, 8, 10 and 16 are also applicable to the entity.

ARTICLE 15 — PAYMENT AND INTEREST ON LATE PAYMENT

Payment procedures

15.1. The contracting authority must pay the grant to the coordinator following one of the payment procedures below, as set out in Article 4 of the special conditions.

Option 1: Actions with an implementation period of 12 months or less or grant of EUR 100 000 or less

(i) an initial pre-financing payment of 80 % of the maximum amount referred to in Article 3.2 of the special conditions (excluding contingencies);

(ii) the balance of the final amount of the grant.

Option 2: Actions with an implementation period of more than 12 months and grant of more than EUR 100 000

(i) an initial pre-financing payment of 100 % of the part of the estimated budget financed by the contracting authority for the first reporting period (excluding contingencies). The part of the budget financed by the contracting authority is calculated by applying the percentage set out in Article 3.2 of the special conditions;

(ii) further pre-financing payments of 100 % of the part of the estimated budget financed by the contracting authority for the following reporting period (excluding not authorised contingencies):

- 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;
- within 60 days following the end of the reporting period, the coordinator 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;
- 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 payment (and 100 % of any 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 payment and the part of the expenditure actually incurred which is financed by the contracting authority;
- the coordinator 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 payment (and 100 % of any previous payments). In this case, the following reporting period starts anew from the end date of the period covered by this payment request;
- in addition, for grants of more than EUR 5 000 000, 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;
- the total sum of pre-financing payments may not exceed 90 % of the amount referred to in Article 3.2 of the special conditions, excluding not authorised contingencies;

(iii) the balance of the final amount of the grant.

Option 3: All actions

(i) the final amount of the grant.

Submission of final reports

15.2. The coordinator shall submit the final report to the contracting authority no later than three months after the implementation period as defined in Article 2 of the special conditions. The deadline for submission of the final report is extended to six months where the coordinator does not have its headquarters in the country where the action is implemented.

Payment request

15.3. The payment request shall be drafted using the model in Annex V and shall be accompanied by:

a) a narrative and financial report in line with Article 2;

b) a forecast budget for the following reporting period in case of request of further pre-financing;

c) an expenditure verification report or a detailed breakdown of expenditure if required under Article 15.7;

For the purposes of the initial pre-financing payment, the signed contract serves as payment request. A financial guarantee shall be attached if required in the special conditions.

Payment shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information provided.

Payment deadlines

15.4. The initial pre-financing payment shall be made within 30 days of receipt of the payment request by the contracting authority.

Further pre-financing payments and payments of the balance shall be made within 60 days of receipt of the payment request by the contracting authority.

However, further pre-financing payments and payments of the balance shall be made within 90 days of receipt of the payment request by the contracting authority in any of the following cases:

a) one beneficiary with affiliated entity(ies);

b) if more than one beneficiary is party to this contract;

c) if the Commission is not the contracting authority

d) for grants exceeding EUR 5 000 000

The payment request is deemed accepted if there is no written reply by the contracting authority within the deadlines set above.

Suspension of the period for payments

15.5. Without prejudice to Article 12, the time-limits for payments may be suspended by notifying the coordinator that:

a) the amount indicated in its request of payments is not due, or;

b) proper supporting documents have not been supplied, or;

c) clarifications, modifications or additional information to the narrative or financial reports are needed, or;

d) there are doubts on the eligibility of expenditure and it is necessary to carry out additional checks, including on-the-spot checks or an audit to make sure that the expenditure is eligible, or;

e) it is necessary to verify, including through an OLAF investigation, whether presumed breach of obligations, irregularities or fraud have occurred in the grant award procedure or the implementation of the action, or;

f) it is necessary to verify whether the beneficiary(ies) have breached any substantial obligations under this contract, or;

g) the visibility obligations set out in Article 6 are not complied with.

The suspension of the time-limits for payments starts when the above notification is sent to the coordinator. The time-limit starts running again on the date on which a correctly formulated request for payment is recorded. The coordinator shall provide any requested information, clarification or document within 30 days of the request.

If, notwithstanding the information, clarification or document provided by the coordinator, the payment request is still inadmissible, or if the award procedure or the implementation of the grant proves to have been subject to irregularities, fraud, or breach of obligations, then the contracting may suspend payments, and in the cases foreseen in Article 12, terminate accordingly this contract.

In addition, the contracting authority may also suspend payments as a precautionary measure without prior notice, prior to, or instead of, terminating this contract as provided for in Article 12.

Interest on late payment

15.6. If the contracting authority pays the coordinator after the time limit, it shall pay default interest as follows:

a) at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country;

b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in euro;

c) on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest will be payable for the time elapsed between the expiry of the payment deadline and the date on which the contracting authority's account is debited.

By way of exception, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, it will be paid to the coordinator only upon demand submitted within two months of receiving late payment.

The default interest is not considered as income for the purposes of Article 17.

This Article 15.6 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.

Expenditure verification report

15.7. The coordinator must provide an expenditure verification report for:

a) any request for further pre-financing payment in case of grants of more than EUR 5 000 000;

b) any final report in the case of a grant of more than EUR 100 000.

The expenditure verification report shall conform to the model in Annex VII and shall be produced by an auditor approved or chosen by the contracting authority. The auditor shall meet the requirements set out in the terms of reference for expenditure verification in Annex VII.

The auditor shall examine whether the costs declared by the beneficiary(ies) and the revenue of the action are real, accurately recorded and eligible under this contract. The expenditure verification report shall cover all expenditure not covered by any previous expenditure verification report.

If no expenditure verification is required with requests for pre-financing payments, a detailed breakdown of expenditure covering the preceding reporting periods not already covered, shall be provided for every other request for further pre-financing payment and starting with the second request for further pre-financing payment (i.e. 3rd, 5th,7th… pre-financing payment).

The detailed breakdown of expenditure shall provide the following information for each cost heading in the financial report and for all underlying entries and transactions: amount of the entry or transaction, accounting reference (e.g. ledger, journal or other relevant reference) description of the entry or transaction (detailing the nature of the expenditure) and reference to underlying documents (e.g. invoice number, salary slip or other relevant reference), in line with Article 16.1. It shall be provided in electronic form and spread sheet format (excel or similar) whenever possible.

The detailed breakdown of expenditure shall be supported by a declaration of honour by the coordinator that the information in the payment request is full, reliable and true and that the costs declared have been incurred and can be considered as eligible in accordance to this contract.

The final report shall in all cases include a detailed breakdown of expenditure covering the whole action.

When the grant takes the form of reimbursement of eligible costs actually incurred and is only expressed in terms of an absolute value (and not as a percentage of the EU contribution to the total eligible costs), verification can be limited to the amount paid by the Commission for the action concerned (i.e. it does not need to cover the whole action).

Where the coordinator is a government department or a public body, the contracting authority may accept to substitute the expenditure verification with a detailed breakdown of expenditure.

The expenditure verification report shall not be provided by the coordinator if the verification is directly done by the contracting authority's own staff, by the Commission or by a body authorised to do so on their behalf, according to Article of 5.2 of the special conditions.

Financial guarantee

15.8. If the grant exceeds EUR 60 000 the contracting authority may request a financial guarantee for the amount of the initial pre-financing payment.

The guarantee shall be denominated in euro or in the currency of the contracting authority, conforming to the model in Annex VIII. The guarantee shall be provided by an approved bank or financial institution established in one of the Member States of the European Union. Where the coordinator is established in a third country, the contracting authority may agree that a bank or financial institution established in that third country may provide the guarantee if the contracting authority considers that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in a Member State of the European Union. This guarantee shall remain in force until its release by the contracting authority when the payment of the balance is made.

During the execution of the contract, if the natural or legal person providing the guarantee (i) is not able or willing to abide by its commitments, (ii) is not authorised to issue guarantees to contracting authorities, or (iii) appears not to be financially reliable, or the financial guarantee ceases to be valid, and the coordinator fails to replace it, either a deduction equal to the amount of the pre-financing may be made by the contracting authority from future payments due to the coordinator under the contract, or the contracting authority shall give formal notice to the coordinator to provide a new guarantee on the same terms as the previous one. Should the coordinator fail to provide a new guarantee, the contracting authority may terminate the contract.

This provision shall not apply if the coordinator is a non-profit organisation, an organisation which has signed a framework partnership agreement with the European Commission, a government department or public body, unless otherwise stipulated in the special conditions.

Rules for currency conversion

15.9. The contracting authority shall make payments to the coordinator to the bank account referred to in the financial identification form in Annex V, which allows the identification of the funds paid by the contracting authority. The contracting authority shall make payments in the currency set in the special conditions.

Reports shall be submitted in the currency set out in the special conditions, and may be drawn from financial statements denominated in other currencies, on the basis of the beneficiary(ies)'s applicable legislation and applicable accounting standards. In such case and for the purpose of reporting, conversion into the currency set in the special conditions shall be made using the rate of exchange at which each contracting authority's contribution was recorded in the beneficiary(ies)'s accounts, unless otherwise provided for in the special conditions. If at the end of the action, a part of the expenses is pre-financed by the beneficiary(ies) (or by other donors), the conversion rate to be applied to this balance is the one set in the special condition according to the beneficiary(ies)'s usual accounting practice. If no specific provision is foreseen in the special conditions, the exchange rate of the last instalment received from the contracting authority will be applied.

15.10. Unless otherwise provided for in the special conditions, costs incurred in other currencies than the one used in the beneficiary(ies)'s accounts for the action shall be converted according to its usual accounting practices, provided they respect the following basic requirements: (i) they are written down as an accounting rule, i.e. they are a standard practice of the beneficiary, (ii) they are applied consistently, (iii) they give equal treatment to all types of transactions and funding sources, (iv) the system can be demonstrated and the exchange rates are easily accessible for verifications.

In the event of an exceptional exchange-rate fluctuation, the parties shall consult each other with a view to amending the action in order to lessen the impact of such a fluctuation. Where necessary, the contracting authority may take additional measures such as terminating the contract.

ARTICLE 16 — ACCOUNTS AND TECHNICAL AND FINANCIAL CHECKS

Accounts

16.1. The beneficiary(ies) shall keep accurate and regular accounts of the implementation of the action using an appropriate accounting and double-entry book-keeping system.

The accounts:

a) may be an integrated part of or an adjunct to the beneficiary(ies)’s regular system;

b) shall comply with the accounting and bookkeeping policies and rules that apply in the country concerned;

c) shall enable income and expenditure relating to the action to be easily traced, identified and verified.

16.2. The coordinator shall ensure that any financial report as required under Article 2 can be properly and easily reconciled to the accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the beneficiary(ies) shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

Right of access

16.3. The beneficiary(ies) shall allow verifications to be carried out by the European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor authorised by the contracting authority. The beneficiary(ies) have to take all steps to facilitate their work.

16.4. The beneficiary(ies) shall allow the above entities to:

a) access the sites and locations at which the action is implemented;

b) examine its accounting and information systems, documents and databases concerning the technical and financial management of the action;

c) take copies of documents;

d) carry out on the-spot-checks;

e) conduct a full audit on the basis of all accounting documents and any other document relevant to the financing of the action.

16.5. Additionally the European Anti-Fraud Office shall be allowed to carry out on-the-spot checks and inspections in accordance with the procedures laid down by the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

Where appropriate, the findings may lead to recovery by the European Commission.

16.6. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors and to any external auditor authorised by the contracting authority carrying out verifications as provided for by this article as well as by Article 15.7 shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject.

Record keeping

16.7. The beneficiary(ies) shall keep all records, accounting and supporting documents related to this contract for five years following the payment of the balance and for three years in case of grants not exceeding EUR 60 000, and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim has been disposed of.

They shall be easily accessible and filed so as to facilitate their examination and the coordinator shall inform the contracting authority of their precise location.

16.8. All the supporting documents shall be available either in the original form, including in electronic form, or as a copy.

16.9. In addition to the reports mentioned in Article 2, the documents referred to in this article include:

a) Accounting records (computerised or manual) from the beneficiary(ies)'s accounting system such as general ledger, sub-ledgers and payroll accounts, fixed assets registers and other relevant accounting information;

b) Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;

c) Proof of commitments such as contracts and order forms;

d) Proof of delivery of services such as approved reports, time sheets, transport tickets, proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates) etc.;

e) Proof of receipt of goods such as delivery slips from suppliers;

f) Proof of completion of works, such as acceptance certificates;

g) Proof of purchase such as invoices and receipts;

h) Proof of payment such as bank statements, debit notices, proof of settlement by the contractor;

i) Proof that taxes and/or VAT that have been paid cannot actually be reclaimed;

j) For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;

k) Staff and payroll records such as contracts, salary statements and time sheets. For local staff recruited on fixed-term contracts, details of remuneration paid, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or European-based staff (if the action is implemented in Europe) analyses and breakdowns of expenditure per month of actual work, assessed on the basis of unit prices per verifiable block of time worked and broken down into gross salary, social security charges, insurance and net salary.

16.10 Failure to comply with the obligations set forth in Article 16.1 to 16.9 constitutes a case of breach of a substantial obligation under this contract. In this case, the contracting authority may in particular suspend the contract, payments or the time-limit for a payment, terminate the contract and/or reduce the grant.

ARTICLE 17 — FINAL AMOUNT OF THE GRANT

Final amount

17.1. The grant may not exceed the maximum ceiling in Article 3.2 of the special conditions either in terms of the absolute value or the percentage stated therein.

If the eligible costs of the action at the end of the action are less than the estimated eligible costs as referred to in Article 3.1 of the special conditions, the grant shall be limited to 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.

17.2. In addition and without prejudice to its right to terminate this contract pursuant to Article 12, if the action is implemented poorly or partially - and therefore not in accordance with the description of the action in Annex I - or late, the contracting authority may, by a duly reasoned decision and after allowing the beneficiary(ies) to submit its observations, reduce the initial grant in line with the actual implementation of the action and in

accordance with the terms of this contract. This applies as well with regards to the visibility obligations set out in Article 6. In case of breach of obligations, fraud or irregularities the contracting authority may also reduce the grant in proportion of the seriousness of breach of obligations, fraud or irregularities.

No profit

17.3. The grant may not produce a profit for the beneficiary(ies), unless specified otherwise in Article 7 of the special conditions. Profit is defined as a surplus of the receipts over the eligible costs approved by the contracting authority when the request for payment of the balance is made.

17.4. 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 coordinator which fall within one of the two following categories:

a) EU grant;

b) income generated by the action; unless otherwise specified in the special conditions.

17.5. In case of an operating grant, amounts dedicated to the building up of reserves shall not be considered as a receipt.

17.6. Where the final amount of the grant determined in accordance with the contract would result in a profit, it shall be reduced by the percentage of the profit corresponding to the final European Union contribution to the eligible costs actually incurred approved by the contracting authority.

17.7. The provisions in Article 17.3 and 17.6 shall not apply to:

a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary, if specified in Article 7 of the special conditions;

b) actions which generate an income to ensure their continuity beyond the end of this contract, if specified in Article 7 of the special conditions;

c) actions implemented by non-profit organisations;

d) study, research or training scholarships paid to natural persons;

e) other direct support paid to natural persons in most need, such as unemployed persons and refugees, if specified in Article 7 of the special conditions;

f) grants of EUR 60 000 or less.

ARTICLE 18 — RECOVERY

Recovery

18.1. If any amount is unduly paid to the coordinator, or if recovery is justified under the terms of this contract, the coordinator undertakes to repay the contracting authority these amounts.

18.2. In particular, payments made do not preclude the possibility for the contracting authority to issue a recovery order following an expenditure verification report, an audit or further verification of the payment request.

18.3. If a verification reveals that the methods used by the beneficiary(ies) to determine unit costs, lump sums or flat-rates are not compliant with the conditions established in this contract, the contracting authority shall be entitled to reduce the final amount of the grant proportionately up to the amount of the unit costs, lump sums or flat rate financing.

18.4. The coordinator undertakes to repay any amounts paid in excess of the final amount due to the contracting authority within 45 days of the issuing of the debit note, the latter being the letter by which the contracting authority requests the amount owed by the coordinator.

Interest on late payments

18.5. Should the coordinator fail to make repayment within the deadline set by the contracting authority, the contracting authority may increase the amounts due by adding interest:

a) at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country;

b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euros;

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the contracting authority, and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.

Offsetting

18.6. Amounts to be repaid to the contracting authority may be offset against amounts of any kind due to the coordinator, after informing it accordingly. This shall not affect the parties' right to agree on payment in instalments.

Other provisions

18.7. The repayment under Article 18.4 or the offsetting under Article 18.6 amount to the payment of the balance.

18.8. Bank charges incurred by the repayment of amounts due to the contracting authority shall be borne entirely by the coordinator.

18.9. The guarantee securing the prefinancing may be invoked in order to repay any amount owed by the beneficiary(ies), and the guarantor shall not delay payment nor raise objections for any reason whatsoever.

18.10. Without prejudice to the prerogative of the contracting authority, if necessary, the European Union may, as donor, proceed itself to the recovery by any means.

***