

Contribution Agreement Manual

This Manual is designed to provide guidance on the interpretation of the contractual provisions of the Contribution Agreement template. It is an internal working tool and it is not legally binding, nor can it be relied upon to challenge a Contracting Authority's decision, judicially or otherwise. The applicable legislation and any clarification provided by the Court of Justice of the European Union take precedence.

Contents

General Conditions	4
Article 1 – Definitions	4
Article 2 – General obligations	13
Article 3 – Obligations regarding information and reporting.....	17
Article 4 – Liability towards third parties.....	29
Article 5 - Conflict of interests	30
Article 6 – Confidentiality	31
Article 7 – Visibility.....	32
Article 8 – Right to use results and transfer of equipment.....	34
Article 9 – Monitoring and evaluation of the Action	36
Article 10 – Amendment to the Agreement.....	38
Article 11 – Suspension	41
Article 12 – Termination.....	46
Article 13 – Applicable law and settlement of disputes.....	49
Article 14 – Recovery	50
Article 15 – Archiving, access and financial checks	52
Article 16 – Eligibility of costs.....	57
Article 17 – Payments	72
Article 18 – Final amount of the EU Contribution.....	79
Article 19 – Financing not linked to costs.....	80
Article 20 – Contracting and Early Detection and Exclusion System.....	81
Annex II a. Provisions applicable only to Multi-Partner Contribution Agreements.....	83
Annex II b. Provisions only applicable to a Contribution Agreement resulting from the award of a grant with or without a call for proposals for EU External Action	88
Special Conditions.....	93
Article 1 - Purpose	93
Article 2 – Entry into force and implementation period	97
Article 3 – Financing the Action	98
Article 4 – Payment arrangements and Reporting.....	102

Article 5 – Communication language and contacts.....104
Article 6 – Annexes.....106
Article 7 – Additional specific conditions applying to the Action.....108
Final provisions and signature.....117

General Conditions

Article 1 – Definitions

Action	the cooperation programme or project partly or wholly financed by the EU, which is carried out by the Organisation as described in Annex I. Where reference is made to the Action or part of the Action financed by the EU Contribution, this refers both (i) to activities exclusively financed by the EU Contribution and (ii) to activities jointly co-financed by the EU.	The Contribution Agreement is used by DG NEAR and DG INTPA. FPI uses the Contribution Agreement for all indirect management actions (IcSP (Instrument contributing to Stability and Peace), PI (Partnership Instrument), CFSP (Common Foreign and Security Policy)) with the exception of CSDP (Common Security and Defence Policy) Missions (and other Article 28 TEU actions) and EUSRs (European Union Special Representatives) for which FPI has adjusted the drafting of the Contribution Agreement based on the one approved by the Commission. Also, under the MFF 2021-2027, it is worth mentioning the establishment of the European Peace Facility, which finances Union CFSP actions to preserve peace, prevent conflicts and strengthen international security and which is financed outside the general budget of the Union through contributions by EU Member States and for which the FPI acts as administrator for assistance measures .
		Information on the difference between Action and overall Action is included in the explanation of <i>Article 3.3</i> of the General Conditions below.
		Even if a component of an Action is exclusively financed by other donors, it will still form part of the Action, provided it is mentioned in the Description of the Action and included in the budget, i.e. Annex III of the Contribution Agreement.
Contractor	a natural or legal person with whom a Procurement Contract has been signed.	The Organisation shall ensure that the provisions listed in <i>Article 2.7</i> of the General Conditions also apply, where applicable, to Contractors.
Days	calendar days	
Early Detection and Exclusion System	a system set up by Regulation (EU, Euratom) No 2015/1929 of 28 October 2015 on the financial rules applicable to the general budget of the Union (OJ L 286/1, 30.10.2015), which includes information on the early detection of risks threatening	The applicable provisions on Early Detection and Exclusion System within the scope of the Contribution Agreement are set out in <i>Article 20</i> of the General Conditions.

	the EU financial interests, on the cases of exclusion from EU funding of legal and natural persons and on the cases of imposition of financial penalties.	For the avoidance of doubt, the reference to the 2012 Financial Regulation (Regulation (EU, Euratom) No 2015/1929 of 28 October 2015 on the financial rules applicable to the general budget of the Union (OJ L 286/1, 30.10.2015)) is to be read as a reference to the 2018 Financial Regulation (Regulation (EU, Euratom) No 2018/1046 (OJ L 193/1, 30.07.2018)) which entered into force on 2 nd August 2018.
End Date	the date by which the Agreement ends, i.e. the moment of the payment of the balance by the Contracting Authority in accordance with Article 17 or when the Organisation repays any amounts paid in excess of the final amount due pursuant to Article 18. If any of the Parties invokes a dispute settlement procedure in accordance with Article 13, the End Date shall be postponed until the completion of such procedure.	<p>Please note that the End Date does not correspond with the end of the Implementation Period, which is stipulated under <i>Article 2.2</i> and <i>2.3</i> of the Special Conditions.</p> <p>The payment of the balance by the Contracting Authority may correspond to a “0 payment” (i.e. the total amount of the pre-financing instalments already paid to Organisation corresponds exactly to the final amount of the EU Contribution). When this is the case, the End Date shall then correspond to the date of the notification made by the Contracting Authority to the Organisation of the approval of the final report, which in that case will need to be encoded in ARES and uploaded in CRIS. In addition, in case of recoveries, the End Date corresponds to the date on which the Organisation repays the amount requested in the debit note. Additional information on the payment of the balance is included in the explanation to <i>Articles 17</i> and <i>18</i> below.</p>
EU Financial Regulation	Regulation (EU, Euratom) No. 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Council Regulation (EC, Euratom) No 996/2012 (OJ, L 193, 30.7.2018, p.1)	
Ex-ante Pillar Assessment	an assessment of the systems, rules and procedures carried out in order to check whether such entity demonstrates a level of protection of the EU financial interests equivalent to that existing when the Commission implements the budget itself.	Unless an entity benefits from an exemption to undergo the Ex-Ante Pillar Assessment (this may happen notably in the case of EU Decentralised Agencies), the Ex-ante Pillar Assessment is a pre-condition for an entity to enter into Contribution Agreements with the EU.

Please note that where the Ex-ante Pillar Assessment has identified weaknesses/gaps in the Organisations' rules and procedures, ad hoc measures may need to be included under *Article 7* of the Special Conditions. More information on such measures may be found in DG BUDG's Central Repository of pillar-assessed entities.

Final Beneficiary	a natural or legal person ultimately benefitting from the Action	
Force Majeure	any unforeseeable and exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of their obligations under the Agreement, which may not be attributed to error or negligence on either part (or on the part of the Grant Beneficiaries, Partners, Contractors, agents or staff), and which could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making them available cannot be invoked as force majeure, unless they stem directly from a relevant case of force majeure. Labour disputes, strikes or financial problems of the Organisation cannot be invoked as force majeure by the defaulting Party.	The concept is applied in light of <i>Articles 11.5 to 11.8</i> of the General Conditions ("Suspension for exceptional circumstances").
Grant	a direct financial contribution by way of donation given by the Organisation or a Partner to finance third parties activities, including sub-granting and procurement for the implementation of these activities.	"Grants" refer to financial contributions provided by the Organisation (or a Partner) to a third party, not to be confused with the financial contribution provided by the Contracting Authority through the Contribution Agreement.
Grant Beneficiary	a natural or legal person to whom a Grant has been awarded.	<p>"Grant" as defined in these General Conditions relates to a financial contribution provided by the Organisation (or a Partner) to a third party. Therefore, under this template a "Grant Beneficiary" is a third party in receipt of a financial contribution from the Organisation (or a Partner).</p> <p>"Partners" are parties to the Contribution Agreement and therefore not "Grant Beneficiaries". "Grant Beneficiaries" are not parties to the Contribution Agreement.</p> <p>The Organisation shall ensure that the provisions listed in <i>Article 2.7</i> of the General Conditions apply also to Grant Beneficiaries. For the avoidance of doubt, Grant Beneficiaries do not have to undergo an Ex-ante Pillar Assessment.</p>
Grave Professional Misconduct	any of:	The definition of Grave Professional Misconduct is based on Article 136 (1) (c) of the EU Financial Regulation. Note that the reference in this Article to sexual exploitation

	<p>a violation of applicable laws or regulations, in particular the Organisation's Regulations and Rules, or ethical standards of the profession to which a person or entity belongs, including any conduct leading to sexual or other exploitation or abuse, or</p> <p>any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence.</p>	<p>and abuse is to be understood as one of the examples of Grave Professional Misconduct.</p> <p>In case of Grave Professional Misconduct, the Contracting Authority may terminate the Contribution Agreement in accordance with <i>Article 12.1 d)</i> of the General Conditions. When considering a termination, the Contracting Authority shall apply the principle of proportionality.</p> <p>Ethical standards have to be understood in the light of the relevant profession. Such standards can, for example, be set out in codes of conduct/ethics issued by the Organisation or for specific professional groups.</p>
<p>Impact</p>	<p>the overall objective of the Action entailing positive and negative, primary and secondary long-term effects produced by a development intervention, directly or indirectly, intended or unintended.</p>	<p>Impacts tend to be long term changes to which the intervention will contribute (at country, regional and/or sectoral level). Impacts can also be the intermediate changes between outcomes and the long-term changes.</p> <p>The EU Action contributes to impact(s) and only indirectly influences its/their achievement. The latter will stem from the synergy of the interventions of all relevant stakeholders in the given context.</p> <p>Impacts are the highest level of the hierarchy of the Results chain crystallised in the first column of the logical/results framework of the Action.</p> <p>One or more indicators are necessary to measure the progress towards the achievement of each impact.</p> <p><i>Example</i> of intermediate impact: Enhanced energy security. <i>Example</i> of long-term impact: Strengthened low-emissions and climate-resilient inclusive green growth.</p>
<p>Indicator</p>	<p>the quantitative and/or qualitative factor or variable that provides a simple and reliable means to measure progress in the achievement of the relevant Results of the Action. An indicator must have an agreed baseline, target and source of data.</p>	<p>Indicators are quantitative or qualitative factors or variables used to measure progress in the achievement of the related result (impact/outcome/output) – hence they are meaningful against a result.</p> <p>Indicators must allow measuring exhaustively the progress towards the achievement of the related result and to feed in reporting. Indicators are to be developed with partners (including data collection responsibilities, frequency, etc.) and beneficiaries</p>

should be involved. The selection of each indicator should be based on the availability of data from a reliable source.

Indicators are relevant for reporting [see *Articles 3.2 and 3.7 b*] of the General Conditions] and performance-based financing [see *Article 19* of the General Conditions].

An Indicator should be stated in a neutral way (not signalling the direction of the expected change). It should also be specific, measurable and clearly defined. Each Indicator must have a baseline (value and year), a target (value and year), and a source of data.

Generally, Indicators are listed in the second column of the logical/results framework of the Action, next to one for the Results chain (first column). Other columns follow for: unit of measure, baseline (with year), target (with year), and source of data.

Indicators may be changed in agreement with the Commission without the need for a formal addendum provided that this does not affect the main purpose of the Action [see *Article 10.5* of the General Conditions]. Please note that changing Indicators in the case of Performance-Based Financing always requires an Amendment [see *Article 19.4* of the General Conditions].

Internal Control System

a process applicable at all levels of management designed to provide reasonable assurance of achieving the following objectives:

- a) effectiveness, efficiency and economy of operations;
- b) reliability of reporting;
- c) safeguarding of assets and information;
- d) prevention, detection, correction and follow-up of fraud and irregularities;
- e) adequate management of the risks relating to the legality and regularity of the financial operations, taking into account the multiannual character of programmes as well as the nature of the payments concerned.

International Organisation

an international public-sector organisation set up by international agreement (including specialised agencies set up by such organisations), or an organisation assimilated to international organisations in accordance with the EU Financial Regulation.

“Public-sector organisation” refers to the institutional nature of the Organisation rather than to its activities.

Member State Organisation	an entity established in a Member State of the European Union as a public law body or as a body governed by private law entrusted with a public service mission and provided with adequate financial guarantees from the Member State.	Financial backing provided to private-law bodies by a Member State in accordance with existing requirements set out in Union law, in a form decided by that Member State and not necessarily requiring a bank guarantee, should be considered as adequate financial guarantees (see Recital 13 to the EU Financial Regulation). Accordingly, the reference to the “financial guarantees from the Member State” does not imply that the Contracting Authority would have to request, for example, a bank guarantee covering pre-financing from the Member State Organisation.
Multi-Donor Action	an Action co-financed by the EU Contribution (whether or not earmarked) and other donor(s).	<p>The concept of Multi-Donor Action covers all the situations where the Organisation or a(n)other donor(s) provide co-financing along with the EU Contribution. It encompasses both the cases where the EU Contribution is earmarked and joint co-financing (where the EU Contribution is not earmarked). Each Contribution Agreement needs to specify in <i>Article 1.2</i> of the Special Conditions whether or not the relevant Action is a Multi-Donor Action.</p> <p>Where co-financing from Grant Beneficiaries (or Final Beneficiaries) is paid back to the Organisation and redirected to fund further activities under the Action, the Action is also considered Multi-Donor.</p> <p>Blending operations are always considered Multi-Donor Actions.</p>
Outcome	the specific objective of the Action entailing the likely or achieved short-term and medium-term effects of an Action’s Outputs. For non-EU external actions “Outcomes” are synonymous of Results..	<p>The Outcome is the behavioural change of the target group likely to be achieved in the short/medium-term. Outcomes entail changes on the behaviour of the target groups in the areas (political, social, economic and/or environmental) targeted by the EU funded Action. These changes/Outcomes are directly influenced by the EU funded Action. However, their achievement does not depend only on the EU funded Action Outputs. The action of other actors and/or actions is also needed.</p> <p>Outcomes follows Outputs and precedes Impacts in the hierarchy of the Results chain in the first column of the logical/results framework of the Action. One or more Indicators are necessary to measure the progress towards the achievement of each Outcome.</p> <p><i>Example of Outcome:</i> Increased and improved access to affordable, reliable, sustainable and modern energy.</p>

Output	the products, capital goods and services which result from an Action's activities.	<p>Outputs are tangible products, capital goods and services under direct control of the EU funded Action. Outputs contribute to the achievement of Outcomes.</p> <p>Outputs are not to be confused with the activities implemented by the Action.</p> <p>Outputs are the lowest level of the hierarchy of the Results chain in the first column of the logical/results framework of the Action.</p> <p>One or more Indicators are necessary to measure the progress towards the achievement of each Output.</p> <p><i>Example of Output:</i> Improved energy infrastructure. <i>Example of related activity:</i> Works to build transmission line.</p>
Partner	an entity implementing part of the Action and being a party to the relevant Contribution Agreement together with the Organisation.	<p>The notion of Partners includes both pillar assessed and non-assessed implementing partners that sign the Contribution Agreement together with the Organisation. EU decentralised agencies follow the rules for pillar assessed organisations (note that EU executive agencies work in direct management, i.e. they will never implement Contribution Agreements).</p> <p>Non-assessed Partners are only possible in the context of Contribution Agreements awarded, by the Commission or by a Partner Country, further to calls for proposals or as a direct award of a grant, without a call for proposals. In all other cases, the Action qualifies as indirect management, i.e. all Partners have to be pillar assessed (or EU decentralised agencies).</p> <p>It is important to underline that Contribution Agreements may be concluded as a direct award of a grant (i.e. without a call for proposals) in exceptional situations, in line with the cases allowed for by the EU Financial Regulation. When such direct award is done by the Commission, this would not be indicated in the Action Document (i.e., because it would have initially been foreseen to award the grants through a call for proposals).</p>
Procurement Contract	a contract signed between the Contractor and either the Organisation or a Partner under which the Contractor provides services, supplies or works.	
Regulations and Rules	regulations, rules, organisational directives, instructions and other parts of the regulatory framework of the Organisation.	

Result

the Output, Outcome, or Impact of an Action.

A complete Results chain, including Outputs, Outcomes, and Impacts of an Action is listed in hierarchical order in the first column of the logical/results framework of the Action.

Sound Financial Management

a principle overarching the implementation of this Agreement, namely economy, effectiveness and efficiency (including all aspects of internal control). The principle of economy requires that resources used in the pursuit of the implementation of the Action shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of effectiveness concerns the attainment of the specific objectives and the achievement of the intended results. The principle of efficiency concerns the best relationship between resources employed and results achieved.

Additional Definitions not provided in Article 1 of the General Conditions:Notional Approach (see Article 155 (5) of the EU Financial Regulation):

Jointly co-financed Actions (i.e. where the EU Contribution is not earmarked) need to have costs eligible in accordance with the relevant provisions of the General Conditions to be covered by the EU Contribution. What is ineligible for the EU Contribution may be eligible for other donors. Under the notional approach, the EU cost eligibility requirements are met as long as other donors cover the costs which are ineligible under EU rules. The use of the notional approach allows the EU to jointly co-finance an Action even though some of the costs of this Action are not eligible for EU funding. The use of the notional approach has to be reported (see *Article 3.8 f*) of the General Conditions) and confirmed by the Organisation. The notional approach does not purport to impose an obligation on the Organisation itself to cover such costs (even though the Organisation may be considered as another donor - see the clarification to the definition of “Multi-Donor Action” in *Article 1* above).

Priority of Consumption:

In order to keep the Contracting Authority’s presence in a long-term Action short, cost eligible for EU funding can be charged to the EU Contribution as a priority during the Contracting Authority’s presence in the Action. Priority of consumption has to do with the release of further pre-financing, for clearing and for final payment. This means that costs incurred in a certain period (i.e. in the Implementation Period of the Contribution Agreement) are attributed as a priority to the EU Contribution, and not divided among the donors pro rata, as could

otherwise be expected. In this way, the Contracting Authority's financial participation can come to an end more quickly. In other words, during the implementation period set out in the Contribution Agreement, it is assumed that the EU funds are "consumed" first.

The concepts of notional approach and priority of consumption are not applicable to Contribution Agreements where the maximum EU Contribution is also expressed as a percentage (Contribution Agreements following calls for proposals, see Annex II.b). As indicated above, they also do not apply where the EU Contribution is earmarked.

Surplus Balance:

In case of Multi-Donor Actions where other donors (i.e. apart from the EU and the Organisation/Partners) contribute to the Action, it should be discussed at an early stage how potential remaining funds at the end of the Action will be used/distributed by the Organisation. This is particularly relevant where the overall action lasts longer than the Implementation Period of the Action. Relevant arrangements must then be reflected in the Special Conditions (see *Article 7.1.x*).

It is underlined that such arrangements do not put into question the principles of the notional approach and priority of consumption which, when applicable, will produce their effects irrespective of whether there are potential remaining funds to be used/distributed by the Organisation.

In order to provide for the treatment of potential surplus balance, one of the two available options has to be chosen in the Special Conditions (see *Article 7.1.x*). The treatment of possible surplus balance would, in principle, be proposed by the Organisation. Indeed, while Commission rules do not require imposing any particular treatment of the surplus balance, the Organisation may have rules and/or practices that govern such issues. In any case, in the context of the negotiations preceding the conclusion of the agreement, the Parties should aim at ensuring that the choice of the Organisation on the treatment of possible surplus balance is respected, while maintaining consonance with the policy priorities and objectives of the Union (e.g. in case the surplus balance is used for financing activities carried out under another project managed by the Organisation, such project should be in consonance with the policy priorities and

objectives of the Union). Also, unless duly justified by the Organisation and accepted by the Contracting Authority, all donors should be treated equally as regards their “share” of the total amount of surplus balance.

Article 2 – General obligations

Implementation of the Action

2.1 The Organisation is responsible for the implementation of the Action described in Annex I, regardless of whether the activities are performed by the Organisation itself, a Contractor or a Grant Beneficiary. Both Parties will endeavour to strengthen their mutual contacts with a view to foster the exchange of information throughout the implementation of the Action. To this end, the Organisation and the Contracting Authority shall participate in coordination meetings and other jointly organised common activities, and the Organisation shall invite the European Commission to join any donor committee which may be set up in relation to the Action.

In light of *Article 2.1* of the General Conditions, the Organisation is held responsible for the performance of its own obligations under the Agreement, as well as for those of Partners, Affiliated Entities, Contractors and/or Grant Beneficiaries.

Financial responsibility is regulated by *Article 2.6* of the General Conditions.

See also *Article 6* of Annex II.a for Multi-Partner Agreements and the last paragraph of Annex II.b for Agreements involving non-pillar assessed Partners and/or affiliated entities.

2.2 In the performance of the activities and subject to ad-hoc provisions stipulated in the Special Conditions, if any, the Organisation shall apply its own rules and procedures, which have been subject to the Ex-ante Pillar Assessment, as regards:

If the Organisation successfully passed the Pillar assessment, its own procedures and rules become equivalent to those of the EU. The Organisation will therefore use its own rules and procedures when implementing the Action. Where pillars are not positively assessed, ad hoc measures may be proposed on a temporary or permanent basis to tackle the weaknesses. Such measures are to be specified in *Article 7* of the Special Conditions.

- (a) internal control;
- (b) accounting system;
- (c) independent external audit;
- (d) exclusion from access to funding
- (e) publication of information on recipients;
- (f) protection of personal data;

The Organisation may apply its own rules and procedures as regards the award and management of Investment Grants and/or Procurement Contracts only if and to the extent provided for by the Special Conditions, including any ad hoc measures.

The option to award and manage the grants and/or procurement contracts must be selected in the *Article 1.2* of the Special Conditions. In case the Pillar assessment identified any weakness, the use of this option may be further completed by additional tailored made measures (ad hoc measures) for the concrete Organisation. Such measures are to be specified in *Article 7* of the Special Conditions.

The publication on the EC internet page (site) is limited to a hyperlink to the main publication place of the Organisation itself.

As regards the publication of information on recipients, the Organisation shall authorise the publication of the website site where it publishes the information referred to in Article 3.8 d) (*Operational reporting*) on the Commission's website.

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| 2.3 | Where the Organisation has been fully or partially exempted, by the European Commission, from undergoing the Ex-ante Pillar Assessment, it may apply its own rules and procedures in the areas provided for under Article 2.2, subject to ad-hoc provisions stipulated in the Special Conditions, if any. | EU Decentralised Agencies may be exempted from the ex-ante Pillar Assessment. Any ad hoc measures are to be specified in <i>Article 7</i> of the Special Conditions. |
| 2.4 | The Organisation may use any Regulations and Rules which have not been subject to an Ex-ante Pillar Assessment to the extent that these Regulations and Rules are not in conflict with the provisions of this Agreement and with the rules and procedures which have been subject to the Ex-ante Pillar-Assessment. | The Organisation may use any other own rules, as long as those are not in contradiction with the rights and obligations stipulated in this Agreement or with the rules which have been pillar assessed. |
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Responsibility

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| 2.5 | The Organisation shall be responsible for the performance of the obligations under this Agreement with a due degree of professional care and diligence, which means that it shall apply the same level of duty and care which it applies in managing its own funds. The Organisation shall respect the principles of Sound Financial Management, transparency, non-discrimination and visibility of the European Union in the implementation of the Action. | The Organisation is responsible for managing the EU Contribution with the same care as it would manage its own funds through the use of its own Regulations and Rules.

The last sentence was already part of the PAGoDA template Special Conditions and has now been moved to the General Conditions as the obligation applies to all actions. |
| 2.6 | The Organisation shall have full financial responsibility towards the Contracting Authority for all funds, including those unduly paid to or incorrectly used by Contractors or Grant Beneficiaries. The Organisation shall take measures to prevent, detect and correct irregularities and fraud when implementing the Action. To this end, the Organisation shall carry out, in accordance with the principle of proportionality and its positively assessed Regulations and Rules, ex-ante and/or ex-post controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the Action financed by the EU Contribution is effectively carried out and implemented correctly. The Organisation shall inform the European Commission and the Contracting Authority of irregularities and fraud detected in the management of the EU Contribution and the measures taken. Where funds have been unduly paid to or incorrectly used by Contractors or Grant Beneficiaries, the Organisation shall take all applicable measures in accordance with its own Regulations and Rules to recover those funds, including, where appropriate, by bringing legal | The Organisation's financial responsibility also includes the part of the Action implemented by Contractors and Grant Beneficiaries, subject to the below.

The Organisation is also financially responsible for the part(s) of the Action implemented by non-pillar assessed Partners (see Annex II.b) (also where pillar assessed Partners participate in the same Action).

Pillar assessed Partners are financially responsible for the part of the Action implemented by them (see <i>Article 6</i> of Annex II.a).

Subject to the above, each Organisation/Partner is financially responsible for its affiliated entities.

For the purpose of this Article, the funds unduly paid to or incorrectly used by Contractors |
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proceedings and by endeavouring to assign claims against its Contractors or Grant Beneficiaries to the Contracting Authority or the European Commission. Where the Organisation has exhausted such measures and the non-recovery is not the result of error or negligence on the part of the Organisation, the Contracting Authority will consider the amounts that could not be recovered from Contractors and/or Grant Beneficiaries as eligible costs.

or Grant Beneficiaries can only be considered eligible for the EU Contribution if the loss of the funds has not derived from any error or negligence on the part of the Organisation and if the Organisation has taken all applicable measures in accordance with its own Regulations and Rules to recover the funds. This may include the recovery through legal proceedings.

The assessment on whether all the applicable measures were taken should be based on the following criteria:

- a) it is clear that the Organisation applied the same level of duty of care it normally applies to its own funds;
- b) the best efforts of the Organisation and all the measures concretely taken were duly documented;
- c) in case a possible measure was not taken, the Organisation documented a reasonable justification for not taking it, as well as it demonstrated it would not have taken such a measure regarding the recovery of its own funds.

For the avoidance of doubt, a separate communication to the Contracting Authority is only necessary where the European Commission is not the Contracting Authority.

Fraud is any intentional act or omission relating to:

- a) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the Union or budgets managed by, or on behalf of, the European Union;
- b) non-disclosure of information in violation of a specific obligation, with the same effect;
- c) the misapplication of such funds for purposes other than those they were originally granted.

An irregularity is any infringement of a provision of Union law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Union or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Union, or by any unjustified item of expenditure. If an irregularity is committed deliberately, however, it is fraud.

Information on irregularities and frauds detected is to be shared timely with the Commission and the Contracting Authority.

Other obligations

2.7 The Organisation undertakes to ensure that the obligations stated in this Agreement under Articles 2.9-Other obligations, 5-Conflict of interests, 7-Visibility, Article 15-Archiving, access and financial checks apply, where applicable, to all Contractors and Grant Beneficiaries.

In addition, the Organisation also undertakes to require Contractors and Grant Beneficiaries to: (i) comply with the relevant national laws and regulations as regards protection of personal data and (ii) ensure accurate and regular records and accounts.

“Where applicable” refers to situations in which any of the listed provisions may be of relevance to the subject matter of the contract and should be respected by Contractors or Grant Beneficiaries.

As regards data protection, it is underlined that instead of asking the Organisation to require Contractors and Grant Beneficiaries to comply with the Organisation’s ex-ante assessed rules, the Organisation only needs to require (through appropriate contractual arrangements) that such Contractors and Grant Beneficiaries comply with the relevant (i.e. applicable to them) national laws and regulations.

2.8 The Organisation shall notify the Contracting Authority and the European Commission without delay of any substantial change in the rules, procedures and systems applied in the implementation of the Action. This obligation concerns in particular (i) substantial changes affecting the Ex-ante Pillar Assessment undergone by the Organisation or affecting the rules and procedures which have been assessed by the European Commission for the purpose of granting an exemption from the obligation to undergo an Ex-ante Pillar Assessment, or (ii) those that may affect the conditions for eligibility provided for in the applicable legal instruments of the EU. The Parties shall use their best efforts to resolve amicably any issues resulting from such changes. The Contracting Authority reserves the right to adopt or require additional measures in response to such changes. In the event an agreement on such measures or other solutions cannot be reached between the Parties, either Party may terminate the Agreement in accordance with Article 12.3.

For the purpose of this Article, the notion of substantial change is to be assessed by the Organisation, with changes deemed, in particular, to be substantial if they were to affect the pillar assessment or the rules and procedures which have been assessed by the Commission for the purpose of granting an exemption from the obligation to undergo a pillar-assessment (applicable in the case of EU Decentralised Agencies – see also *Article 1.3* of the Special Conditions for additional details). When in doubt, the Organisation should always notify the Commission of the changes.

To be noted that the template of the Management Declaration requires partners to confirm that no substantial changes, which have not already been communicated to the European Commission, affect the rules and procedures which have been subject to the Ex-ante Pillar-Assessment or assessed for the purpose of granting an exemption to the obligation to undergo the Ex-ante Pillar Assessment

2.9 The Organisation shall promote the respect of human rights and respect applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards. The Organisation shall not support activities that contribute to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion.

Tax evasion or tax fraud means using illegal practices to avoid paying taxes, for example by not declaring profits or using various ways to avoid paying VAT.

Tax avoidance means using **legal** instruments in order to pay as little tax as possible, for example by shifting profits to a low-tax country or deducting interest payments for loans with artificially-inflated interest rates. Projects shall not be structured in a way to contribute to tax avoidance. The financed projects should not involve aggressive tax planning, i.e. it should be established that there are sound business

reasons (other than tax reasons) for structuring of the projects and that they are not structured so to take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability.

The obligation to not support activities that contribute to tax avoidance is deemed to be complied with since the corresponding rules and procedures of the Organisation have been ex-ante assessed (or the Organisation has been exempted from such assessment) under *Pillar (7) Exclusion for Access to Funding* and are complemented, if relevant, by ad-hoc measures included in the Special Conditions of the Contribution Agreement.

Further information is included in the Communication from the Commission on new requirements against tax avoidance in EU legislation governing in particular financing and investment operations of March 21, 2018 (COM (2018) 1756 - see INTPA Companion, annex e6a).

2.10 Where the European Commission is not the Contracting Authority, it shall not be a party to this Agreement, with the consequence that rights and obligations are conferred upon it only where explicitly stated. This is without prejudice to the European Commission's role in promoting a consistent interpretation of the terms of this Agreement.

Article 3 – Obligations regarding information and reporting

General issues

3.1 The Organisation shall provide the Contracting Authority with full information on the implementation of the Action. To that end, the Organisation shall include in Annex I a work plan at least for the first year of the Implementation Period (or the whole Implementation Period where it is less than one (1) year). The Organisation shall submit to the Contracting Authority progress report(s) and a final report in accordance with the provisions below. These reports shall consist of a narrative part and a financial part.

The "Implementation Period" starts at a date as defined in *Article 2.2* of the Special Conditions and it takes the number of months as specified in *Article 2.3* of the Special Conditions. The Implementation Period ends at the conclusion of that number of months.

The "Implementation Period" should be distinguished from the "End Date" of the Agreement as defined in *Article 1* of the General Conditions.

The Contribution Agreement does not impose a template for reporting and hence Organisations are free to use their own format, provided that the minimum requirements for reporting foreseen in this Article are met, as well as possible additional reporting requirements specified under *Article 4* of the Special Conditions.

Therefore, an Organisation can generally use its own templates/format. This is also the case for the budget, i.e. Annex III (e.g. resources-based budget or activity-based budget). However, in the context of calls for proposals, Organisations have to use the templates published with the relevant call. At the pre-contractual stage, the Contracting Authority may request additional information on the budget headings and items to properly assess the Organisation's proposal.

Article 3 of the General Conditions sets out minimum requirements that the financial and narrative reports must comply with. These reports shall be laid out in such a way as to allow monitoring of objective(s), the means envisaged and employed. The level of detail in the reports shall match that of Annexes I and III, including detail on incurred number of units and unit costs when they are foreseen in the budget.

As a general principle, there should be one progress report for every twelve-months of implementation. This frequency of reporting is in principle considered sufficient by the Contracting Authority. To request more than one report per year represents an exception to this general rule. Where specific circumstances require an increase in the frequency of reports, this will be agreed by the Parties beforehand, and explicitly stipulated in the Special Conditions of the Contribution Agreement (namely *Article 4.x*).

The Authorising Officer may decide that reports can be provided via e-mail in electronic form if the following conditions are fulfilled:

- a) A functional mailbox of the Contracting Authority is indicated for this purpose in *Article 5.3* of the Special Conditions of the relevant agreement.
- b) The responsible service of the Contracting Authority manually acknowledges the receipt of the relevant report (i.e. it is not sufficient to have an automatic acknowledgement of receipt). In addition, emails must be registered by the responsible service (e.g. in ARES or ABAC) like a payment request received on paper.

If this option is not used, advance copies of reports may still be submitted by electronic means, but the electronic submission will not trigger the deadline for payments.

<p>3.2</p>	<p>Every report, whether progress or final, shall provide a complete account of all relevant aspects of the implementation of the Action for the period covered. The report shall describe the implementation of the Action according to the activities envisaged in Annex I as well as the degree of progress towards the achievement of its Results (Outputs, Outcomes, and if possible, Impact) as measured by corresponding Indicators. The report shall be drafted in such a way as to allow monitoring of the Results, the means envisaged and employed. The level of detail in any report shall match that of Annexes I and III.</p>	<p>The narrative report will maintain the level of detail of the Annex I (Description of the Action) and it has to include the elements listed in <i>Article 3.7</i> of the General Conditions.</p> <p>The financial report will be presented with the same level of detail as the budget headings/items established in Annex III (Budget of the Action).</p>
<p>3.3</p>	<p>Where the overall action of the Organisation lasts longer than the Implementation Period of this Agreement, the Contracting Authority may request – in addition to the final reports to be submitted pursuant to Article 3.8 – the final reports of the overall action, once available. The Special Conditions shall lay down the rules concerning any remaining funds.</p>	<p><u>Overall action</u></p> <p>The notion of <i>overall action</i> is relevant in the context of Multi-Donor Actions where the project continues after the end of the Implementation Period of the Contribution Agreement. In this case, the Contracting Authority may request (at any time) the Organisation to submit – in addition to the final report to be provided in accordance with <i>Article 3.8</i> of the General Conditions – also final reports produced at the end of the overall action.</p> <p>There is no link between the final report of the overall action and the final payment in accordance with <i>Article 18</i> of the General Conditions, i.e. the payment shall not be made contingent on the submission of the final report on the overall action.</p> <p>The concepts of <i>notional approach</i> and <i>priority of consumption</i> (see explanations in the Additional Definitions above) will often be relevant in this context.</p> <p>In case of Multi-Donor Actions where other donors (i.e. apart from the EU and the Organisation/Partners) contribute to the Action, it should be discussed at any early stage how potential remaining funds at the end of the Action will be used/distributed by the Organisation. Relevant arrangements must then be reflected in the Special Conditions (see <i>Article 7.1.x</i> as well as the explanations included in the section on ‘Additional Definitions’ above).</p>
<p>3.4</p>	<p>Any alternative or additional reporting requirement shall be set out in the Special Conditions.</p>	<p>As a general principle, there should be one progress report for every twelve months of implementation. This frequency of reporting is, in principle, considered sufficient by the Contracting Authority.</p> <p>Where specific circumstances require an increase in the frequency of reports, this will be agreed by the Parties beforehand, and explicitly stipulated in the Special Conditions of the Contribution Agreement (namely <i>Article 4.x</i>).</p>

Alternative or additional reporting requirements should be discussed between the Parties as early as possible.

Any deviations to the standard reporting requirements shall respect the relevant provisions in the applicable Financial Framework Partnership Agreement (FFPA), where relevant.

These additional reporting requirements may also include specifications to what already is included in *Article 3* of the General Conditions, and may relate both to substance and form (i.e. minimum ½ page etc.).

For EU external action:

As long as alternative or additional reporting requirements include the minimum elements stated in *Article 3* of the General Conditions a derogation/exception request (as per the rules of the relevant Commission service) is not needed. The agreed requirements have to be introduced in a new paragraph under *Article 4* of the Special Conditions.

Alternative or additional reporting requirements which would not include all elements set out in *Article 3* of the General Conditions have to be mutually agreed, justified and appropriate in the light of the specific circumstances. This needs to be reflected in *Article 7.2* of the Special Conditions and an exception case (for INTPA currently case 7.b) must be registered.

3.5

The Contracting Authority may request additional information at any time, providing the reasons for that request. Subject to the Organisation's Regulations and Rules, such information shall be supplied within thirty (30) Days of receipt of the request. The Organisation may submit a duly motivated request to extend the 30-Day deadline.

The additional information requested by the Contracting Authority under this Article shall be reasonable and relevant. This Article does not impose additional reporting requirements nor will the obtained additional information be used for a desk review, verification or audit, which are regulated under *Article 15* of the General Conditions and, if applicable, under the verification clause/annex of the FFPA signed with the Organisation.

The request for additional information or clarifications does not immediately imply a suspension of the time limit for payment, which is subject to the provisions of *Article 11* of the General Conditions. As per *Article 11.1 b)* of the General Conditions, the

suspension may be considered when the Contracting Authority has doubts about compliance by the Organisation with its obligations in the implementation of the Action.

No request for extension of the deadline should be unreasonably withheld.

Please note that the terms '*Subject to the Organisation's Regulations and Rules*' only refer to the time limit of 30 Days, not to the content or extent of the information to be provided by the Organisation.

3.6 The Organisation shall notify the Contracting Authority without delay of any circumstances likely to adversely affect the implementation and management of the Action, or to delay or jeopardise the performance of the activities.

It is underlined that this includes the obligation to notify the contracting authority without delay of any case of physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation committed in relation to the implementation of the Action (see also the definition of 'Grave Professional Conduct').

Content of the reports

3.7 The progress report(s) shall relate directly to this Agreement and shall at least include:

- a) summary and context of the Action;
- b) actual Results: an updated table based on a logical framework matrix (as included in Annex I) including reporting of Results achieved by the Action (Outputs, Outcomes, and if possible, Impact) as measured by their corresponding Indicators, against agreed baselines and targets, and relevant data sources;
- c) information on the activities directly related to the Action as described in Annex I and carried out during the reporting period;
- d) information on the difficulties encountered and measures taken to overcome problems and eventual changes introduced;
- e) information on measures taken to identify the EU as source of financing, in accordance with Article 7;
- f) a breakdown of the total costs, following the structure set out in Annex III, incurred from the beginning of the Action as well as the legal commitments entered into by the Organisation during the reporting period;
- g) a summary of controls carried out and available final audit reports in line with the Organisation's policy on disclosure of such controls and audit reports. Where errors and weaknesses in systems were identified, an analysis of their nature and extent, as well as information on corrective measures taken or planned, shall also be provided;

Article 3.7 a)

Article 3.7 a) asks to give an overview of the Action and its implementation during the reporting period, including updates on the context if applicable.

The summary should include a brief overview of the progresses towards the achievement of the results (output(s)/outcome(s)/impact) progressed (as per logical framework matrix - see *point b*) during the reporting period and the likelihood of reaching the final target(s) by the end of the Action.

In case of amendments/changes to the Logical Framework Matrix during the reporting period, without prejudice of *Article 10* of the General Conditions, please briefly introduce the changes and include the justification for those. More information/justification are to be provided as per *Article 3.7 b*).

Article 3.7 b)

Article 3.7 b) comprises two parts: (i) update of values in the Logical Framework Matrix and (ii) the related narrative:

- h) where applicable, a request for payment;
- i) work plan and budget forecast for the next reporting period.

- i. Update all Indicators in the Logical Framework Matrix as presented in the Description of the Action (Annex I) with a current value (i.e. the most updated value available at the time of the submission of the report).

As per *Article 4.3* of the Special Conditions, the update of the most recent value for each indicator in the Logical Framework Matrix must be provided via the corporate OPERational SYStem "OPSYS".

Any necessary modification of the baselines, targets, or source of data of the Indicator should be made in the Logical Framework Matrix of the Action with due consideration to the rules for amendments (see Article 10 of the General Conditions).

- ii. The narrative includes description of the information on each level of the results chain (output(s), outcome(s), impact) and their achievement during the reporting period on the basis of updated value of the indicators against the targets set in the Logical Framework Matrix.

Elements to be considered while completing this part are (not exhaustive list):

- Description and justification of cases in which it is not possible to provide the most updated value for an Indicator during the reporting period;
- In case of underperformance, explanation of the reasons and the corrective measures;
- In case the Action has had unforeseen positive or negative impact, it should be mentioned.

This part could be complemented by information from monitoring and/or evaluation reports relating to the performance of the Action (as per *Article 10*).

Article 3.7 c)

Article 3.7 c) requires to describe how the activities carried out during the reporting period contributed to progress towards the achievement of the output to which they are related to as per Annex I.

Article 3.7 f)

Financial reports should reflect the costs incurred (see explanation for *Article 16.1* of the

General Conditions) and the amounts subject to legal commitments, presented in 2 separate columns, which correspond to the pertaining reporting period. This reference is crucial for the assessment of the minimum thresholds for further pre-financing, as set out in *Article 17* of the General Conditions: 70% of the immediately preceding payment and 100% of previous payments, if any.

As regards eligible amounts disbursed to staff that count for the calculation of the 70% threshold, these have to be included in the costs incurred.

The staff costs in question are direct costs corresponding to the Organisation's staff since indirect staff costs are covered by the remuneration. Additionally and for further clarification:

- a) Legal commitments cover also (committed and) paid costs.
- b) Legal commitments are considered to be contracts that the Organisation enters into with a third party and not with their own staff.
- c) There can be costs of staff of the Organisation that can be considered as direct costs (if they are directly related to the Action), still are not covered by a legal commitment (see above). These amounts need to be taken into consideration along with the legal commitments of the project, to evaluate a further pre-financing payment.
- d) Direct costs that correspond to staff outside the Organisation, shall be included in the legal commitments (in order to avoid double calculation, based on the 1st comment above).

Costs and commitments of Partners and affiliated entities also have to be included in the reports.

Article 3.7 g)

This obligation is without prejudice to the obligation to inform the Commission (and the Contracting Authority) about any irregularities and fraud in accordance with *Article 2.6* of the General Conditions.

Article 3.7 i)

The forecast budget for the next reporting period must be provided to allow defining the amount of the next pre-financing payment when the latter is not yet defined in the Special Conditions.

For Multi-Donor Actions where the EU Contribution is earmarked, the information required as per *Articles 3.7 f), 3.8 b) and 3.8 c)* of the General Conditions has to be included only for the part of the Action financed by the EU Contribution. Such cases have to be indicated in *Article 4* of the Special Conditions (optional text “*The information required as per Articles 3.7 f), 3.8 b) and c) of Annex II has to be included only for the part of the Action financed by the EU Contribution*”). All other reporting elements have to cover the entire Action. As regards the financial reporting for the parts that are not (co-financed) by the EU Contribution, the Organisation should at least include the total amount disbursed and the total amount of commitments made in the relevant period.

In all other cases, the information requested under this Article shall cover the full Action (for a definition of an Action see *Article 1* of the General Conditions).

3.8

The final report shall cover the entire Implementation Period and include:

- a) all the information requested in *Article 3.7 a) to h)*;
- b) a summary of the Action’s receipts, payments received and of the eligible costs incurred;
- c) where applicable, an overview of any funds unduly paid or incorrectly used which the Organisation could or could not recover itself;
- d) the exact link to the website referred to in last subparagraph of *Article 2.2*;
- e) if relevant, details of transfers of equipment, vehicles and remaining major supplies mentioned in *Article 8*;
- f) where the Action is a Multi-Donor Action and the EU Contribution is not earmarked, a confirmation from the Organisation that an amount corresponding to that paid by the Contracting Authority has been used in accordance with the obligations laid down in this Agreement and that costs that were not eligible for the EU Contribution have been covered by other donors’ contributions;
- g) where applicable, a request for payment.

Article 3.8 b)

This Article sets the requirement to indicate all sources of financing. In case the Action was a Multi-Donor Action and the EU contribution was not earmarked, the final report would include information on amounts contributed by other donors. This is also important because of the “notional approach” mentioned also under *Article 3.8 f)* of the General Conditions.

Article 3.8 c)

Explanations on the measures that have been put in place to recover the funds and why such measures were not successful must be provided by the Organisation in the report (see in this context also the explanation to *Article 2.6* of the General Conditions).

With reference to *Article 3.8 f)* of the General Conditions, it is understood that the meaning of such Article is that the Organisation needs to indicate in the Final Report whether reported costs that were not considered eligible for the Contracting Authority have been covered by other donors’ contributions under which such costs were considered eligible. For the avoidance of doubt, *Article 3.8 f)* of the General Conditions does not purport to impose an obligation on the Organisation itself to cover such costs (even though the Organisation may be considered as another donor – see the clarification to the definition of Multi-Donor Action in *Article 1* of the General Conditions above). On the scope of the reporting in cases of Multi-Donor Actions, see the explanation to *Article 3.7* of the General Conditions.

3.9

The Organisation shall submit a report for every reporting period as specified in the Special Conditions starting from the commencement of the Implementation Period, unless otherwise specified in the Special Conditions¹. Reporting, narrative as well as financial, shall cover the whole Action, regardless of whether this Action is entirely or partly financed by the EU Contribution. Unless otherwise specified in the Special Conditions, progress reports shall be submitted within sixty (60) Days after the period covered by such report and the final report shall be submitted, at the latest, six (6) months after the end of the Implementation Period.

Subject to the conditions described under *Article 3.1* of the General Conditions, reports (and the payment requests, see *Article 17.2* of the General Conditions) can also be submitted in electronic format via e-mail.

Unless otherwise specified in the applicable FFPA, the reports shall be sent to the Contracting Authority (as per the contact details determined in *Article 5* of the Special Conditions) i.e. it is not sufficient to refer the Contracting Authority to a website that contains the relevant information.

All reports have to be specific to the Action.

The Contracting Authority and the Organisation may agree on a different reporting schedule, be that for a specific report or for the whole reporting schedule (see also explanations related to *Article 3.4* of the General Conditions above). It is possible, for example, to agree that the first report will be submitted before the end of the first year to then align the following reports with the financial year of the Organisation. As for other deviating reporting arrangements, this has to be specified in the Special Conditions.

Management Declaration

3.10

Every progress and final report shall be accompanied by a management declaration in accordance with the template included in Annex VI, unless Article 1.5 of the Special Conditions states that a global management declaration shall be sent annually to the European Commission headquarters, separately from the reports provided under this Agreement.

Contribution Agreements contain the obligation to provide with every report a Management Declaration following the template annexed to the Contribution Agreement as Annex VI (see INTPA Companion, annex e2f7 and NEAR Map, section E.6.1). This obligation applies in all cases, i.e. also when the Contribution Agreement results from a call for proposals or when the Contracting Authority is from a Partner Country.

The management declaration is one of the elements of the Commission's internal control system and it serves the purpose of confirming that:

- a) the information provided in the report is properly presented, complete and accurate;
- b) the EU contribution was used for its intended purpose, as defined in the Contribution Agreements;
- c) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;

¹ By default, the reporting period is every 12 months as from the commencement of the Implementation Period.

- d) the Organisation performed the activities in compliance with the obligations laid down in the Contribution Agreement and applying the rules and procedures defined in *Article 1.3* of the Special Conditions.
- e) No substantial changes, which have not already been communicated to the European Commission, affect the rules and procedures which have been subject to the Ex-ante Pillar-Assessment or assessed by the European Commission for the purpose of granting an exemption to the obligation to undergo the Ex-ante Pillar Assessment.

However, it is possible to agree with the Commission to send annually both the Management Declaration covering all ongoing Contribution Agreements and, if applicable, Contribution Agreements for Financial Instruments and Guarantee Agreements, and – where relevant – the Audit or Control Opinion.

In case there is an arrangement with the European Commission for this purpose, the **Global** Management Declaration shall be sent annually to INTPA R4 (INTPA-R4@ec.europa.eu) and it would cover all Contribution Agreements, Delegation Agreements and, if applicable, Contribution Agreements for Financial Instruments signed between the Commission (all services) and the Organisation and Guarantee Agreements as well. This arrangement can either be included in the FFPA or established through an exchange of letters. The template to be used for the Global Management declaration is Annex VI (Management Declaration template) with additional reference to the related Agreements (Contribution Agreements, Delegation Agreements and, if applicable, Contribution Agreements for Financial Instruments and Guarantee Agreements) that were ongoing during the related year.

The list of arrangements with the Organisations can be found on the dedicated page of BUDGpedia: [Management declarations \(europa.eu\)](https://budgpedia.europa.eu/management-declarations)

In this case, the Organisation sends within the year “n” (this could be either the calendar year or the financial year of the Organisation):

- a) The Global Management Declaration for year “n-1” covering all contracts implemented in year “n-1” (calendar year or financial year of the Organisation, as indicated in the Global Management Declaration). This Management Declaration is valid until the end of year “n+1” (calendar year or financial year of the Organisation), i.e. it serves as Management Declaration for payment requests/reports

submitted until this point in time. **In case the Management Declaration is missing or does not cover the relevant/correct period, the reports will be considered incomplete and the Contracting Authority may suspend the respective payment.**

Example: Organisation "X" provides in April 2017 a Global Management Declaration covering the period 1/10/2015 to 30/09/2016. The Declaration is valid until 30/09/2018; and – where relevant

- b) The Audit or Control Opinion of the accounts of the organisation related to financial transactions of the Action(s) funded by the EU in year "n-1".

The Organisation shall indicate in every report submitted (either progress or final) whether the Management Declaration and Audit or Control Opinion are attached to the report, or sent annually to the Commission headquarters. In the latter case, services can check on this web page whether the relevant documents have been sent.

In case of Multi-Partner Agreements, the Organisation and pillar assessed Partners will each submit Management Declarations related to the part of the Action implemented by them (see also *Article 3 b*) of the Annex II.a). Where part of the Action is implemented by a non-pillar assessed Partner and/or an affiliated entity, the Management Declaration of the Organisation will also cover the part of the Action implemented by the non-assessed Partner and/or affiliated entity (see Annex II.b).

If the Organisation has opted for the submission of a Global Management Declaration, such declaration may cover Contribution Agreements, Delegation Agreements (based on the PAGO DA template), Contribution Agreements for Financial Instruments and Guarantee Agreements. There is no need to (re-) submit the Global Management Declaration with the progress or final reports.

For the avoidance of doubt, the annual Global Management Declaration shall also be sent to the Commission headquarters when the Agreement is managed by an EU Delegation or a Contracting Authority from a Partner Country.

Audit or control opinion for organisations other than International Organisations / Member State Organisations

- 3.11** In case the Organisation is neither an International Organisation, nor a Member State Organisation, the Organisation shall provide an audit or control opinion in accordance with internationally accepted audit standards, establishing whether the accounts give a true and fair view, whether the control systems in place function properly, and whether the underlying transactions are managed in accordance with the provisions of this Agreement. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration mentioned above.
- The Audit or Control Opinion should refer to the financial transactions of the Action(s) funded by the EU. That is to say, an **overall financial audit on the Organisation or its annual audited balance sheets do not meet these requirements and are therefore not sufficient**.
- The list of arrangements with the Organisations that have opted for annual global submission every year is available here:
<https://myintracomm.ec.europa.eu/dg/INTPA/finance-contracts-legal/financing-contracting-guides/companion/Pages/management-declaration-control-audit-opinion.aspx>.
- The Audit or Control Opinion can be issued by an audit body which is operationally independent from the Organisation. In the case of EU decentralised agencies, the Audit or Control Opinion can be provided by the Internal Audit Service of the agency, provided that the parent DG positively assesses its compliance with Articles 154 and 155 of the EU Financial Regulation.
- In case of Multi-Partner Agreements, the audit opinion is only requested from the Partner(s) that are neither an International Organisation nor a Member State Organisation.

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- 3.12** Such audit or control opinion shall be provided up to one (1) month following the management declaration sent with every progress or final report, unless Article 1.5 of the Special Conditions states that the global management declaration and the global audit or control opinion shall be sent annually to the European Commission headquarters separately from the reports provided under this Agreement.

Currency for reporting

- 3.13** The reports shall be submitted in the Currency of the Agreement as specified in Article 3 of the Special Conditions.
- The “Currency of the Agreement” is stated in the Special Conditions. By default it is EUR, but it may also be the accounting currency of the Organisation if the Organisation so requests (see *Article 3.1* of the Special Conditions).

In case the Currency of the Agreement is the accounting currency of the Organisation, every report and payment request will be presented in such currency. The only contractual reference in EUR is the maximum amount of the EU Contribution which corresponds to the EU budgetary commitment for the Action and cannot be exceeded, as stated in *Article 18.2* of the General Conditions. It is important that the Organisation is made aware of this ceiling when negotiating a Contribution Agreement not in EUR.

If the Currency of the Agreement is the accounting currency of the Organisation, for the purpose of reporting there will be no need to set a conversion rule from the accounting currency of the Organisation to EUR.

Where necessary, the conversion should be made in accordance with the Organisation's cost accounting practices (see *Article 3.14* of the General Conditions).

3.14 The Organisation shall convert legal commitments, the Action's receipts and costs incurred in currencies other than the accounting currency of the Organisation according to its usual accounting practices.

Failure to comply with reporting obligations

3.15 If the Organisation is unable to present a progress or final report, together with the accompanying documents, by the deadline set out in Article 3.9, the Organisation shall inform the Contracting Authority in writing of the reasons. The Organisation shall also provide a summary of the state of progress of the Action and, where applicable, a provisional work plan for the next period. If the Organisation fails to comply with this obligation for two (2) months, following the deadline set out in Article 3.9, the Contracting Authority may terminate the Agreement in accordance with Article 12, refuse to pay any outstanding amount and recover any amount unduly paid.

It is understood that the two-month period refers to the failure to inform the Contracting Authority of the reasons for the delay and the failure to provide the summary of the state of progress of the Action.

Article 4 – Liability towards third parties

4.1 The European Commission shall not, under any circumstances or for any reason whatsoever, be held liable for damage or injury sustained by the staff or property of the Organisation while the Action is being carried out, or as a consequence of the

Action. The European Commission shall not therefore accept any claim for compensation or increase in payment in connection with such damage or injury.

4.2 The European Commission shall not, under any circumstances or for any reason whatsoever, be held liable towards third parties, including liability for damage or injury of any kind sustained by them in respect of or arising out of the implementation of the Action.

4.3 The Organisation shall discharge the European Commission of all liability associated with any claim or action brought as a result of an infringement of the Organisation's Regulations and Rules committed by the Organisation or Organisation's employees or individuals for whom those employees are responsible, or as a result of a violation of a third party's rights in the context of the implementation of the Action.

Article 5 – Conflict of interests

5.1 The Organisation shall refrain, in accordance with its Regulations and Rules, from any action which may give rise to a conflict of interests.

The Organisation shall refrain from acting in any manner that would interfere with an impartial and objective implementation of the Contribution Agreement. It shall also comply with the obligation to identify and take appropriate measures to avoid or resolve a conflict of interests.

In the context of Actions where the decision to finance a particular activity is based on the opinion of a steering committee, the decision by the Organisation to finance any project selected by a steering committee (whenever applicable) does not constitute *per se* a “conflict of interests” (this is often the case in blending facilities/platforms).

Without prejudice to *Article 5.2* of the General Conditions, the decision by the Organisation to finance any project identified in the course, or as a result, of the implementation of the Action shall not constitute a “conflict of interest” within the application of *Article 5.1* of the General Conditions provided that such financing is compliant with the Organisation's positively assessed Regulations and Rules.

5.2 A conflict of interest shall be deemed to arise where the impartial and objective exercise of the functions of any person implementing the Agreement is compromised.

Persons involved in the implementation of the Agreement should base their performance and professional judgement only on legal and objective criteria and on sufficient and appropriate evidence.

A conflict of interest can arise even if the person exercising their functions does not actually benefit from the situation. However, such circumstances must have an identifiable and individual link with (or impact on) concrete aspects of the conduct, behaviour or relationships of the person.

For further details, please refer to Commission Notice: Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (2021/C 121/01).

Article 6 – Confidentiality

6.1 The Contracting Authority and the Organisation shall both preserve the confidentiality of any document, information or other material directly related to the implementation of the Action that is communicated as confidential. The confidential nature of a document shall not prevent it from being communicated to a third party on a confidential basis when the rules binding the Parties, or the European Commission when it is not the Contracting Authority, so require. In no case can disclosure put in jeopardy the Parties' privileges and immunities or the safety and security of the Parties' staff, Contractors, Grant Beneficiaries or the Final Beneficiaries of the Action.

In light of this Article, any document, information or other material directly related to the implementation of the Action which is classified as "restricted", "confidential" or "secret" by the Organisation or the Contracting Authority shall not be communicated to third Parties in any form or manner.

The fact that documents have been classified as "restricted", "confidential" or "secret" by the Organisation cannot be a sufficient reason for such documents not to be communicated to the Contracting Authority, on a 'need-to-know basis' and only for the part pertaining to the programmes funded by the EU. Should rules binding upon a Party require access to such type of information or documents, the Parties will consult in order to come to a mutually agreeable arrangement informed of the disclosure policies binding upon the Organisation and the regulatory framework of the EU.

Where the European Commission is not the Contracting Authority, it shall still have access to all documents communicated to the Contracting Authority and should maintain the same level of confidentiality (see *Article 6.4* of the General Conditions).

6.2 The Parties shall obtain each other's prior written consent before publicly disclosing such confidential information unless:

- a) the communicating Party agrees in writing to release the other Party from the earlier confidentiality obligations; or
- b) the confidential information becomes public through other means than in breach of the confidentiality obligation by the Party bound by that obligation; or

c) the disclosure of confidential information is required by law or by Regulations and Rules established in accordance with the basic constitutive document of any of the Parties.

6.3 The Parties shall remain bound by confidentiality for five (5) years after the End Date of the Agreement, or longer as specified by the communicating Party at the time of communication.

6.4 Where the European Commission is not the Contracting Authority, it shall nonetheless have access to all documents communicated to the Contracting Authority, and shall maintain the same level of confidentiality.

Article 7 – Visibility

Visibility

7.1 Unless the European Commission requests or agrees otherwise, the Organisation shall take all appropriate measures to publicise the fact that the Action has received funding from the EU. Such measures shall be carried out in accordance with the Visibility Requirements for EU External Action², as in effect at the time of entry into force of this Agreement, or with any other guidelines agreed between the European Commission and the Organisation.

Strategic communication and visibility are important parts of all EU external action programmes. To this end, the visibility requirements remain obligatory. As a general rule, however, the EU intends to focus its communication effort related to EU-funded external actions on key political priorities and activities that demonstrate scale and impact. Consequently, implementing partners are no longer required to include a specific communication budget and plan for each project/programme.

Exceptionally, within the context of EU External Actions and with prior agreement of the EU, communication activities for specific projects/programmes may be funded as part of the action (see further *Article 7.7* here below).

In principle, individual projects/programmes should not include a dedicated visibility budget. Instead, any costs necessary to ensure compliance with contractual visibility requirements should be factored into the budget foreseen for the relative objectives and activities of the action.

² Communication and Visibility in EU-financed external actions – Requirements for implementing partners (Projects), available at: https://ec.europa.eu/international-partnerships/comm-visibility-requirements_en.

For more information, please refer to the *Communicating and raising EU visibility: Guidance for external actions* (the “CV Guidelines”) available at https://international-partnerships.ec.europa.eu/system/files/2022-07/Communicating%20and%20raising%20EU%20visibility%20-%20Guidance%20for%20external%20actions%20-%20July%202022_0.pdf

As regards projects/programmes which are not implemented within the context of the EU’s external action, please refer to the relevant legal basis and guidance to be provided by the responsible Commission services. Indeed, it is underlined that, in some cases, the relevant legal basis/guidance may establish that the inclusion and implementation of a communication plan is compulsory. In such cases, a communication plan must be included in Annex I (Description of the Action) and the corresponding communication activities must be properly budgeted in Annex III. (Budget of the Action)

7.2 If, during the implementation of the Action, equipment, vehicles or major supplies are purchased using the EU Contribution, the Organisation shall display appropriate acknowledgement on such vehicles, equipment or major supplies, including the display of the EU emblem (twelve yellow stars on a blue background). Where such display could jeopardise the Organisation’s privileges and immunities or the safety of the Organisation’s staff or of the Final Beneficiaries, the Organisation shall propose appropriate alternative arrangements. The acknowledgement and the EU emblem shall be of such a size and prominence as to be clearly visible in a manner that shall not create any confusion regarding the identification of the Action as an activity of the Organisation, nor the ownership of the equipment, vehicles or major supplies by the Organisation.

7.3 If, pursuant to Article 8.5, the equipment, vehicles or remaining major supplies purchased with the EU Contribution have not been transferred to the local authorities, local Grant Beneficiaries or Final Beneficiaries when submitting the final report, the visibility requirements as regards this equipment, vehicles or major supplies (in particular display of the EU emblem) shall continue to apply between submission of the final report and the end of the overall action, if the latter is longer. Where the Organisation retains ownership in accordance with Article 8.6, the visibility requirements shall continue to apply as long as the relevant equipment, vehicles or remaining major supplies are used by the Organisation.

If there are doubts as to what constitutes “major” supplies, the Organisation should consult with the Contracting Authority.

7.4 Unless otherwise provided in the Special Conditions, if disclosure risks threatening the Organisation’s safety or harming its interests, the European Commission and the

The Contracting Authority - as a rule - publishes the name and address of the Organisation as well as the purpose and amount of the EU Contribution.

Contracting Authority (if other than the European Commission) may publish in any form and medium, including on its websites, the name and address of the Organisation, the purpose and amount of the EU Contribution.

In the event that such disclosure would harm the Organisation's safety or interests (as well as the safety of its staff), the Contracting Authority and the Organisation may agree on specific arrangements which would have to be included in the Special Conditions. It is important that the relevant discussion between the Organisation and the Contracting Authority takes place before the signature of the Contribution Agreement.

7.5

The Organisation shall ensure that reports, publications, press releases and updates relevant to the Action are communicated to the addresses stated in the Special Conditions upon their issuance.

By default, all the documents relevant to the Action have to be sent to the Contracting Authority and, more specifically, to the address specified in the Special Conditions.

However, FFPAs may provide for different arrangements. For example, the obligation to communicate reports and other information to the Contracting Authority should be deemed fulfilled once the relevant documents are posted, for example, through a donor portal or website of the Organisation or, if applicable, through a different channel as established to the benefit of the contributors to the Action. This is the case, for example, for the IMF.

7.6

The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the visibility requirements set out in this Article. This is without prejudice to measures the Contracting Authority may take in case of substantial breach of an obligation.

Communication

7.7

In addition to the obligations stipulated under Article 7.1 to 7.6, the Organisation shall implement, if applicable, communication activities as described in Annex I.

In case the communication plan is agreed, the communication activities shall be described in the Annex I (Description of the Action) and properly budgeted in Annex III. (Budget of the Action).

The plan must be based on sound analysis, proper sequencing and an appropriate budget in line with the elements set out in section 3.1 to 3.8 of the CV Guidelines.

Article 8 – Right to use results and transfer of equipment

Right to use

8.1	Ownership of the results of the Action shall not vest in the Contracting Authority. Subject to Article 6, the Organisation shall grant, and shall act to ensure that any third party concerned grants the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use free of charge the results of the Action, including the reports and other documents relating to it, which are subject to industrial or intellectual property rights.	Intellectual property vests in the Organisation (or the Partner, as applicable) and will not be subject to joint or co-ownership with the Contracting Authority. Where the application of <i>Articles 8.11</i> or <i>8.2</i> of the General Conditions poses a problem, the Parties should consult one another with a view to finding a mutually acceptable solution. By “right to use”, it is understood that the Contracting Authority (and the European Commission where it is not the Contracting Authority) is not prevented from using deliverables produced in the course of the Action by any contractual or legal copyright constraint.
8.2	Where the results mentioned in Article 8.1 include pre-existing rights and the Organisation cannot warrant the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use such results, the Organisation shall inform in writing the Contracting Authority (and the European Commission, where it is not the Contracting Authority) accordingly.	

Transfer

8.3	The equipment, vehicles and remaining major supplies purchased with the EU Contribution shall be transferred to or remain with local authorities, local Grant Beneficiaries or Final Beneficiaries, at the latest when submitting the final report.	<p><i>Articles 8.3</i> to <i>8.6</i> of the General Conditions do not apply if the Organisation only requests reimbursement of depreciation costs, following the Organisation’s depreciation rules, instead of the full purchase costs.</p> <p>Equipment, vehicles and major supplies purchased during an Action financed by the European Union are required to be transferred to local authorities, local Grant Beneficiaries or to the Final Beneficiaries. In case local non-pillar assessed Partners participate in the implementation of the Action, equipment, vehicles and major supplies may also be transferred to such local Partners (see Annex II.b).</p> <p>However, in cases of Multi-Donor Actions, certain exemptions can be envisaged (see <i>Article 8.5</i> of the General Conditions).</p> <p>Without prejudice to the foregoing, the transfer of assets or property should be in accordance with the Organisation’s Regulations and Rules. The decision on the recipients of this transfer pertains to the Organisation and does not require prior approval by the Contracting Authority.</p>
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<p>8.4</p>	<p>The documentary proof of those transfers shall not be presented with the final reports, but shall be kept for verification for the duration and along with the documents mentioned in Article 15.1..</p>	<p>The Organisation is not required to submit copies or originals of certificates of donation with the final report. The Organisation, however, shall keep the documentary proof of the transfer for verification along with the documents mentioned in <i>Article 15</i> of the General Conditions.</p> <p>The form of proof of transfer depends on the concrete transfer. Annex e3h10 to the PRAG standard grant contract can serve as an example.</p>
<p>8.5</p>	<p>By way of derogation from Article 8.3, the equipment, vehicles and remaining major supplies purchased with the EU Contribution in the framework of actions which continue after the end of the Implementation Period may be transferred at the end of the overall action. The Organisation shall use the equipment, vehicles and remaining major supplies for the benefit of the Final Beneficiaries. The Organisation shall inform the Contracting Authority on the end use of the equipment, vehicles and remaining major supplies in the final report.</p>	<p>The end of the overall action corresponds to the end of the project carried out by the Organisation, which often lasts longer than the Implementation Period of the Contribution Agreement.</p> <p>The Implementation Period corresponds to the period during which the activities financed by the EU must take place and related costs will be eligible for EU financing. This period is defined in <i>Article 2.3</i> of the Special Conditions.</p> <p>The final report invoked in this Article refers to the one mentioned in <i>Article 3.3</i> of the General Conditions.</p>
<p>8.6</p>	<p>In the event that there are no local authorities, local Grant Beneficiaries or Final Beneficiaries to whom the equipment, vehicles and remaining major supplies could be transferred, the Organisation may transfer them to another action funded by the EU or - exceptionally - retain ownership of the equipment, vehicles and remaining major supplies at the end of the Action or the overall action. In such cases, it shall submit a justified written request with an inventory listing of the items concerned and a proposal concerning their use in due course and - at the latest - together with the submission of the final report. In no event may the end use jeopardize the sustainability of the Action.</p>	<p>The final report invoked in this Article refers to the one mentioned in <i>Article 3.3</i> of the General Conditions.</p> <p>The cases foreseen by the word “exceptionally” include the situations in which the costs for the transfer of equipment, vehicles and remaining major supplies are higher than the remaining value.</p> <p>In case the items are transferred to another action wholly or partially financed by the EU, this shall be indicated in the Description of the Action of the other Action but the costs related to the items may not be included in the budget of the other Action, except for costs related to their use and maintenance.</p>

Article 9 – Monitoring and evaluation of the Action

<p>9.1</p>	<p>Keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement, the Organisation shall invite representatives of the European Commission and the Contracting Authority (if other than the European Commission) to</p>	<p>Evaluation and monitoring missions are to be distinguished from a financial verification. The former do not affect the latter.</p>
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	<p>participate at their own costs to the main monitoring missions and evaluation exercises related to the performance of the Action. Participation in evaluation exercises should be ensured by requesting comments from the European Commission and the Contracting Authority on the terms of reference before the exercise takes place, and on the different deliverables related to an evaluation exercise prior to their final approval (as a minimum, on the final report). The Organisation shall send all monitoring and evaluation reports relating to the Action to the European Commission and the Contracting Authority once issued, subject to confidentiality.</p>	<p>Where evaluations by the Organisation take place, the European Commission should be invited to take part in the mission and should receive the evaluation report. These missions should be completed in a collaborative manner, it being understood that they will be conducted under the Organisation's responsibility.</p> <p>Deliverables may include, for instance, the inception report, the desk report and any other data collection or interim report.</p>
<p>9.2</p>	<p>Article 9.1 is without prejudice to any monitoring mission or evaluation exercise, which the European Commission as a donor, or the Contracting Authority, at their own costs, may wish to perform. Monitoring and evaluation missions by representatives of the European Commission or the Contracting Authority shall be planned ahead and completed in a collaborative manner between the staff of the Organisation and the European Commission's (or Contracting Authority's) representatives, keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement. The European Commission (or the Contracting Authority) and the Organisation shall agree on procedural matters in advance. The European Commission (or the Contracting Authority) shall make available to the Organisation the terms of reference of the evaluation exercise before it takes place, as well as the different deliverables (as a minimum, the draft final report) for comments prior to final issuance. The European Commission (or the Contracting Authority) shall send the final monitoring and evaluation report to the Organisation once issued.</p>	<p>The European Commission may perform evaluation missions as a donor. These evaluations are funded by the EU separately from the budget of the Contribution Agreement with the Organisation. Such missions should be planned and completed in a collaborative manner. For that purpose, matters as timing of the missions and questions to be addressed with the management of the Organisation will be previously discussed by both Parties. In this respect, Commission services shall ensure that notice of the intended evaluations and monitoring exercises is communicated to the Organisation as soon as this is available.</p> <p>For the evaluation or monitoring missions performed by the Commission, the Commission will inform the Organisation of the evaluation and monitoring plans at the beginning of the year and send the terms of reference for information. This is without prejudice to the provisions agreed in the respective FFPA.</p>
<p>9.3</p>	<p>In line with the spirit of partnership, the Organisation and the European Commission (and the Contracting Authority, if applicable), may also carry out joint monitoring and/or evaluation. Such arrangements will be discussed and agreed in due time, planned ahead and completed in a collaborative manner.</p>	<p>Considering the shared principles of aid effectiveness as promoted by the Paris Declaration, the European Commission and the Organisation are encouraged to conduct joint evaluation missions. One can also rely on exercises performed by the other (or by another entity where relevant, for example in case of Multi-Donor Actions where such exercises could be carried out by other donors).</p>
<p>9.4</p>	<p>Representatives of the relevant partner country shall also be invited to participate at their own costs in the main monitoring missions and evaluation exercises, unless such participation would be detrimental to the objectives of the Action or threaten the safety or harm the interests of Partners, Grant Beneficiaries or Final Beneficiaries.</p>	

Article 10 – Amendment to the Agreement

10.1	Without prejudice to Articles 10.3 to 10.6, any amendment to this Agreement, including its annexes, shall be set out in writing in an addendum signed by both Parties. This Agreement can only be amended before the End Date.	<p>An addendum can be used, inter alia, in order to grant an extension of the Implementation Period. The Organisation cannot extend the Implementation Period of the Action unilaterally. Such modification needs to be set out in writing in an addendum to the Contribution Agreement. Between the end of the Implementation Period and the End Date it is still possible to amend the Contribution Agreement.</p> <p>For the purpose of this Article, the reference to “Parties” includes Partners, i.e. in case of Multi-Partner Agreements, if the initial agreement was signed by the Organisation and the Partner(s), the addendum also has to be signed by the Organisation and the Partner(s). However, where the Organisation has signed the Contribution Agreement on behalf of the Partners (default option), there is no need for the latter to sign the addendum.</p> <p>Possible modifications which might have a substantive impact on the quality of the implementation should always be discussed in detail with the Contracting Authority beforehand.</p>
10.2	The requesting Party shall request in writing any amendment at least thirty (30) Days before the amendment is intended to enter into force and no later than thirty (30) Days before the End Date, unless there are special circumstances, duly demonstrated by it, and accepted by the other Party. The other Party shall notify its decision regarding the amendment proposed in due time and in any case no later than thirty (30) Days after the date when the amendment request was received.	It is understood that the requesting Party may request in writing any amendment at least (30) Days before the amendment is intended to enter into force and no later than thirty (30) Days before the End Date, unless there are special circumstances, duly demonstrated by it, and accepted by the other Party.
10.3	By way of derogation from Articles 10.1 and 10.2, where an amendment to Annex I and/or Annex III does not affect the main purpose of the Action, such as its objectives, strategy and priority areas, and the financial impact is limited to a transfer within a single budget heading, including cancellation or introduction of an item, or a transfer between budget headings involving a variation (as the case may be in cumulative terms) of 25 % or less of the amount originally entered (or as amended by a written addendum) in relation to each concerned heading, the Organisation may unilaterally amend Annex I and/or Annex III and shall inform the Contracting Authority accordingly in writing, at the latest in the next report.	<p>With respect to the first sentence of <i>Article 10.3</i> of the General Conditions, should any doubts arise as to whether the modification affects “the main purpose of the Action”, the Organisation shall inform the Contracting Authority in a separate communication. In this case, the Contracting Authority shall proceed with the request as soon as possible.</p> <p>For the avoidance of doubt, as soon as a modification has an impact on the objectives, strategy or priority areas, no unilateral amendment will be possible.</p>

As there is no standard template for the budget (except where the Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the Organisation prior to the signature of the Contribution Agreement (see also the respective footnote in the Special Conditions).

For the purpose of interpreting the 25% flexibility rule mentioned above, a budget heading is an aggregate of individual budget lines:

- a) In input-based budgets (e.g. in agreements stemming from calls for proposals), a group of budget items related to a particular type/nature of the input constitutes together a budget heading. For instance, in the Commission template for the Budget of the Action, the sections 1 “human resources”, 2 “travel”, 3 “equipment and supplies”, are the budget headings. Within the main budget headings, the Organisation may rearrange items up to 100% without prejudice to *Article 10.5* of the General Conditions. The detailed categories of costs within a budget heading are, for example, 1.1 “salaries - gross amount local staff”, 1.1.1 “Technical”, 1.1.2 “Administrative/support staff”, 1.2 “Salaries - gross amount, expat/int. staff”...);
- b) In results-based budgets, the aggregation of the resources required to implement an activity/result could be considered as the budget heading. In case of doubt, it is advisable to clarify what the budget headings are before the signature of the agreement.

Within the parameters specified above (and provided the basic purpose of the Action is not affected), the Organisation can, for instance, adjust the unit rates or monthly fees for Staff which are indicative (estimate) at the time when the agreement is signed. The unit rates included in the budget headings are considered as an average and can therefore change over the time of implementation (this is not possible when the SCO approach is followed).

As soon as the Organisation becomes aware that a reallocation of funds exceeding 25% from one budget heading to another will be necessary, an addendum has to be initiated.

Procedure to determine the 25% threshold:

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- a) The 25% variation is calculated on the original value of each concerned heading where funds are taken from, as well as on the original value of each corresponding heading where the funds are to be added;
 - b) If more than one modification to a Budget heading is foreseen, such modifications made by the Organisation are taken into account in a cumulative way. That is to say, for example, that if a budget heading was increased by 20% of its initial value (as set out in the Budget of the Action) through unilateral modification, that same heading can be further increased only by up to 5% of that same initial value set out in the budget of the Action (thus reaching in total up to 25% variation of its initial value). Therefore, it is not possible to proceed with several unilateral reallocations which would equal, altogether, a total variation of more than 25%;
 - c) When the cumulative variations of a given budget heading exceed 25% of the budget heading's value in force, it is necessary to process a formal budget revision (addendum) for which the EU's formal approval is required. Any amount in excess of the 25% ceiling which is not covered by an addendum is not eligible for EU financing;
 - d) The 25% is calculated on the total value of the heading (i.e. the total amount for all years in case of multi-annual Actions and/or Multi-Donor Actions) set out in the actual Budget of the Action (the original one or the one modified through an addendum), not just on the EU Contribution.

Please assess whether a standard derogation (as stated in *Article 7.2* of the Special Conditions) regarding *Article 10.3* of the General Conditions is needed in each agreement.

10.4

The method described in Article 10.3 shall be used neither to amend the contingency reserve referred to under Article 16.2, the rate for remuneration, nor the agreed methodology or fixed amounts/rates of simplified cost options.

The contingency reserve (also called “contingencies” in this Manual) is an amount not exceeding 5% of the direct eligible costs that may be included in the budget due to the specificity and the high level of unpredictability of external actions. It aims to cover unforeseen needs and/or fluctuations in the exchange rate. Please see *Article 16.2* of the General Conditions for a further explanation of the contingency reserve.

For an example of how to allocate the contingency reserve to direct costs and remuneration, please see the explanation of *Article 16.4* of the General Conditions.

10.5

The Organisation may, in agreement with the Contracting Authority and before the modification takes place, change the following without a formal addendum to the Agreement:

(a) Outputs, the Indicators and their related targets, baselines and sources of verification described in Annex I and in the logical framework if the change does not affect the main outcome of the Action;

(b) Communication activities described in Annex I.

Approved changes must be explained in the next report

Changes to Outputs, the Indicators and their related targets, baselines and sources of verification should be agreed in writing (exchange of letters or emails) before the change takes effect. The Organisation should also highlight the respective changes in the next report.

The Communication activities in Annex I (Description of the Action), should there be any, may also be changed in writing, without a formal addendum.

Once approved, the changes are subsequently documented in the next report submitted to the Contracting Authority, covering the concerned reporting period when the changes happened.

For the avoidance of doubt, the relevant changes constitute an amendment to the Agreement, but they do not require a formal addendum unless they imply a transfer between budget headings involving a variation (as the case may be in cumulative terms) of more than 25 % of the amount originally entered (or as amended by an addendum) in relation to each concerned heading.

10.6

Changes of address and of bank account shall be notified in writing to the Contracting Authority. Where applicable, changes of bank account must be specified in the request for payment, using the financial identification form attached as Annex IV.

Where a payment is to be made to a bank account which is already known to the European Commission (i.e. the Organisation had already signed an agreement before), the Organisation may provide a copy of the relevant financial identification form. There is no need to provide a new original form unless the previously submitted form is no longer applicable. The same applies to the Legal Entity File (LEF). Where the Organisation has signed an agreement before, the Legal Entity Number which has been attributed to the Organisation is sufficient.

Article 11 – Suspension

Article 11 of the General Conditions covers the provisions on suspension in three different circumstances:

- a) suspension of the time limits of a payment;
- b) suspension of the implementation of the Agreement by the Contracting Authority; and
- c) suspension of the implementation of all or part of the Agreement/Action by the Organisation or the Contracting Authority for exceptional circumstances.

11.1

The Contracting Authority may suspend the time limit for payment following a single payment request by notifying the Organisation that either:

- a) the amount is not due; or
- b) the appropriate supporting documents have not been provided and therefore the Contracting Authority needs to request clarifications, modifications or additional information to the narrative or financial reports. Such clarifications or additional information may notably be requested by the Contracting Authority if it has doubts about compliance by the Organisation with its obligations in the implementation of the Action; or
- c) credible information has come to the notice of the Contracting Authority that puts in doubt the eligibility of the reported expenditure; or
- d) credible information has come to the notice of the Contracting Authority that indicates a significant deficiency in the functioning of the Internal Control System of the Organisation or that the expenditure reported by the Organisation is linked to a serious irregularity and has not been corrected. In this case, the Contracting Authority may suspend the payment deadline if it is necessary to prevent significant damage to the EU's financial interests.

The implications are different for each case.

The suspension of the time limit of a single payment request might occur either for reasons strictly related to the payment request itself (situations under a), first sentence of b) and c)), or for reasons related to the implementation of the Action which would put into question the content of the reports or the reliability of the expenditures reported (situations under the second sentence of b) and d)).

In either case, invoking suspension shall be duly substantiated by the Contracting Authority.

Once the payment request is received, the deadline for payment starts running. The time limits for payments are:

- a) with respect to the pre-financing instalment as set out in *Article 4.2* of the Special Conditions, 30 Days from the receipt of the Agreement signed by both Parties as established in *Article 17* of the General Conditions (unless a derogation is introduced in Special Conditions in cases where the Implementation Period starts later);
- b) with respect to further pre-financing instalments and the final payment, 90 Days from the receipt of a payment request accompanied by a progress or final report as laid out in *Article 17* of the General Conditions. In the situation listed in *Article 11* of the General Conditions, the Contracting Authority is entitled to “stop the clock” and suspend the abovementioned time limits for payment.

Nonetheless, the suspension of the time limit does not suspend the implementation of the Action nor the eligibility of the costs.

The suspension of the time limit for payment should be applied carefully since the non-provision of a payment may put into jeopardy the implementation of the Action as well as it can have serious negative implication for the Organisation and for the beneficiaries.

The Contracting Authority may also suspend the time limit for payment if supporting documents have been provided but these documents are incomplete (i.e. information is missing). Considering that narrative and financial reports must contain the same level of detail as Annex I (Description of the Action) and Annex III (Budget of the Action), lack of the respective details would qualify as “missing information” with the

subsequent right to suspend. However, requests for additional information on reports or some other operational details relating to the activities shall not per se suspend the time limit for payment.

For a definition of “irregularity” see the explanations on *Article 2.6* of the General Conditions above.

11.2	<p>In the situations listed in Article 11.1, the Contracting Authority shall notify the Organisation as soon as possible, and in any case within thirty (30) Days from the date on which the payment request was received, of the reasons for the suspension, specifying - where applicable - the additional information required. Suspension shall take effect on the date when the Contracting Authority sends the notification stating the reasons for the suspension. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further checks are carried out. If the requested information or documents are not provided within the deadline fixed in the notification or are incomplete, payment may be made on the basis of the partial information available.</p>	<p>The suspension of the time limit is encoded in the system and takes effect on the date when the Contracting Authority sends the notification to the Organisation stating the reasons for suspension.</p> <p>This notification has to take place within 30 Days from the reception of the payment request. After this deadline, the time limit can no longer be suspended. However, it is still possible to ask for additional information before processing the payment.</p> <p>The suspension of the time limit for the payment may be lifted, if the Organisation, in its observations submitted pursuant to <i>Article 11.2</i> of the General Conditions, confirms that remedial measures are being taken to the satisfaction of the Contracting Authority.</p> <p>When the observations are not submitted or are incomplete, it is still possible to proceed to a partial payment on the basis of the information available.</p>
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Suspension of the Agreement by the Contracting Authority

11.3	<p>The Contracting Authority may suspend the implementation of the Agreement, fully or partly, if:</p> <ul style="list-style-type: none">a) the Contracting Authority has proof that irregularities, fraud or breach of substantial obligations have been committed by the Organisation in the procedure of its selection, in its Ex-ante Pillar Assessment or in the implementation of the Action;b) the Contracting Authority has proof that irregularities, fraud or breach of obligations have occurred which call into question the reliability or effectiveness of the Organisation's Internal Control System or the legality and regularity of the underlying transactions;c) the Contracting Authority has proof that the Organisation has committed irregularities, fraud or breaches of obligations under other agreements funded by EU
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funds provided that those irregularities, fraud or breaches of obligations have a material impact on this Agreement.

11.4	<p>Before suspension, the Contracting Authority shall formally notify the Organisation of its intention to suspend, inviting the Organisation to make observations within ten (10) Days from the receipt of the notification. If the Organisation does not submit observations, or if - after examination of the observations submitted by the Organisation - the Contracting Authority decides to pursue the suspension, the Contracting Authority may suspend all or part of the implementation of this Agreement serving seven (7) Days' prior notice. In case of suspension of part of the implementation of the Agreement, upon request of the Organisation, the Parties shall enter into discussions in order to find the arrangements necessary to continue the part of the implementation that is not suspended. Any expenditures or costs incurred by the Organisation during the suspension and related to the part of the Agreement suspended shall not be reimbursed, nor be covered by the Contracting Authority. Following suspension of the implementation of the Agreement, the Contracting Authority may terminate the Agreement in accordance with Article 12.2, recover amounts unduly paid and/or, in agreement with the Organisation, resume implementation of the Agreement. In the latter case, the Parties will amend the Agreement where necessary.</p>	<p>Costs incurred during this type of suspension of the Agreement are not eligible.</p> <p>The result of a suspension of the implementation of the Agreement by the Contracting Authority is that the related costs incurred are not eligible (subject to <i>Article 11.8</i> of the General Conditions below). The Organisation may still continue with the implementation but the relevant costs will have to be covered by other sources.</p> <p>The Agreement may be suspended in full or in part. In case of partial suspension, it might be necessary to find practical arrangements with the Organisation in order to continue the part of the implementation which is not suspended. In such a case, the costs related to the part of the Agreement that is not suspended remain eligible.</p> <p>If, following the suspension, the implementation is resumed, the Agreement might have to be amended to be adjusted to the new situation (for example, for an extension of the Implementation Period).</p>
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Suspension for exceptional circumstances

11.5	<p>The Organisation may decide to suspend the implementation of all or part of the Action if exceptional or unforeseen circumstances beyond the control of the Organisation make such implementation impossible or excessively difficult, such as in cases of Force Majeure. The Organisation shall inform the Contracting Authority immediately and provide all the necessary details, including the measures taken to minimise any possible damage, and the foreseeable effect and date of resumption.</p>	<p>This provision covers the suspension of the implementation of the Action by the Organisation. This includes Force Majeure (as defined in <i>Article 1</i> of the General Conditions) and other exceptional and unforeseen circumstances that are beyond control of the Organisation. It covers, inter alia, the situations where there is an unacceptable risk to the security of staff members, experts or their contractors involved in the implementation of the Action.</p> <p>More specifically, the Organisation may cancel some or all of the scheduled activities if such a situation arises. Such a cancellation has to be processed in accordance with <i>Article 10</i> of the General Conditions.</p> <p>The Organisation should immediately inform the Contracting Authority of the need to suspend the implementation of the Action due to Force Majeure or other exceptional or unforeseen circumstances beyond its control which make the implementation impossible or excessively difficult, indicating whether the suspension is full or partial, signalling the start date of the suspension and specifying what</p>
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		measures are taken to minimise the financial damage and the foreseeable date of resumption.
		The Organisation may decide to terminate the implementation of all or part of the Action if the suspension renders it impossible for the Organisation to continue the implementation.
11.6	The Contracting Authority may also notify the Organisation of the suspension of the implementation of the Agreement if exceptional circumstances so require, in particular: a) when a relevant EU Decision identifying a violation of human rights has been adopted; or b) in cases such as crisis entailing a change of EU policy.	In this case, the reasons for suspension are determined by external events that in generally require immediate action. Under such circumstances, no prior consultation with the Organisation is required and the suspension takes effect on the date stated in the written notification.
11.7	Neither of the Parties shall be held liable for breach of its obligations under the Agreement if Force Majeure or exceptional circumstances as set forth under Articles 11.5 and 11.6 prevent it from fulfilling said obligations, and provided it takes any measures to minimise any possible damage.	The exclusion of responsibility is subject to the conditions that: a) the breach is caused by the exceptional circumstances or Force Majeure; and, b) that the party concerned has taken any possible measures to minimise the damage.
11.8	In the situations listed in Articles 11.5 and 11.6, the Parties shall minimise the duration of the suspension and shall resume implementation once the conditions allow. During the suspension period, the Organisation shall be entitled to the reimbursement of the minimum costs, including new legal commitments, necessary for a possible resumption of the implementation of the Agreement or of the Action. The Parties shall agree on such costs, including the reimbursement of legal commitments entered into for implementing the Action before the notification of the suspension was received which the Organisation cannot reasonably suspend, reallocate or terminate on legal grounds. This is without prejudice to any amendments to the Agreement that may be necessary to adapt the Action to the new implementing conditions, including, if possible, the extension of the Implementation Period or to the termination of the Agreement in accordance with Article 12.3. In case of suspension due to Force Majeure or if the Action is a Multi-Donor Action, the Implementation Period is automatically extended by an amount of time equivalent to the duration of the suspension.	In principle, during the suspension of the implementation of the Agreement, the costs are not eligible. However, under exceptional circumstances, such as crisis, the Organisation is likely to need to bear some costs or enter into new legal commitments in order to ensure the security of staff and supplies and guarantee a minimum structure in view of the possible resumption of the Agreement (e.g., costs of warehouse, repatriation of staff, salaries of staff which cannot be allocated to other projects and for which the termination of the contract would not be cost-effective, indemnities or damages which the Organisation might have to pay as a direct consequence of the suspension). These costs would therefore be considered eligible, provided they comply with the applicable eligibility criteria (see <i>Article 18</i> of the General Conditions on cost eligibility). These agreed costs would also include the reimbursement of legal commitments entered into before the notification of the suspension was received by the Organisation, if these commitments cannot be reasonably suspended, reallocated or terminated. In case the Organisation suspends the implementation of all or part of the Action, there is no notification to the Organisation. Instead, this refers to commitments entered into by the Organisation before the suspension took effect.

The Parties should agree on the amount of minimum costs, including legal commitments. To this end, following the notification of the suspension, the Organisation will make a proposal to the Contracting Authority where it justifies the reasons of such costs for the Contracting Authority's approval. The agreement to cover minimum costs should not be unreasonably withheld.

Upon resumption, the Agreement might require amendments to suit the new situation. The Organisation should inform the Contracting Authority through a written note that it resumes the implementation once the conditions allow.

In case of suspension for Force Majeure or in Multi-Donor Actions, the Implementation Period is automatically extended by the time equivalent to the duration of suspension without need of an amendment to the Agreement.

Article 12 – Termination

<p>12.1</p> <p>Without prejudice to any other provision of these General Conditions or penalties foreseen in the EU Financial Regulation, where applicable, and with due regard to the principle of proportionality, the Contracting Authority may terminate the Agreement if the Organisation:</p> <ul style="list-style-type: none">a) fails to fulfil a substantial obligation incumbent on it under the terms of the Agreement;b) is guilty of misrepresentation or submits false or incomplete statements to obtain the EU Contribution or provides reports that do not reflect reality to obtain or keep the EU Contribution without cause;c) is bankrupt or being wound up, or is subject to any other similar proceedings;d) is guilty of Grave Professional Misconduct proven by any justified means;e) has committed fraud, corruption or any other illegal activity to the detriment of the EU's financial interests on the basis of proof in the possession of the Contracting Authority;f) fails to comply with the reporting obligations in accordance with Article 3.15;g) has committed any of the failings described in Article 11.3 on the basis of proof in the possession of the Contracting Authority.	<p>The decision to terminate the Agreement is a last resort decision and the principle of proportionality should be taken into account.</p> <p>Substantial obligations are all requirements that are essential for the proper implementation of the Action. One example are the obligations set out in <i>Article 15</i> of the General Conditions (see also <i>Article 15</i>). Both the importance of the obligation and the seriousness of the breach should be taken into account when deciding on a possible termination.</p> <p>In accordance with <i>Article 1</i> of the General Conditions, Grave Professional Misconduct is to be understood as any of:</p> <ul style="list-style-type: none">a) a violation of applicable laws or regulations, in particular the Organisation's Regulations and Rules, or ethical standards of the profession to which a person or entity belongs, including any conduct leading to sexual or other exploitation or abuse orb) any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence.
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The fact that the misconduct must be “grave” implies that the conduct denotes a wrongful intent or negligence of certain gravity. Accordingly, any incorrect, imprecise or defective performance of a contract or a part thereof could demonstrate the limited professional competence of the economic operator at issue, but does not automatically imply grave misconduct.

For a definition of “fraud” see the explanations on *Article 2.6* of the General Conditions above.

“Corruption” is to be understood as follows:

“Passive Corruption” is the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way that damages or is likely to damage the European Union’s financial interest.

“Active Corruption” is the deliberate act of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union’s financial interests.

The penalties provided for in the EU Financial Regulation refer to administrative penalties (exclusion and/or financial penalties) that the Contracting Authority under certain circumstances may impose without prejudice to the privileges and immunities of the Organisation as regards the enforcement of financial penalties.

12.2

Before terminating the Agreement in accordance with Article 12.1, the Contracting Authority shall formally notify the Organisation of its intention to terminate, inviting the Organisation to make observations (including proposals for remedial measures) within thirty (30) Days from the receipt of the notification. During this period, and until the termination takes effect, the Contracting Authority may suspend the time limit for any payment in accordance with Article 11.2 as a precautionary measure informing the Organisation immediately in writing. If the Organisation does not submit observations, or if, after examination of the observations submitted by the Organisation, the Contracting Authority decides to pursue the termination, the Contracting Authority may terminate the Agreement serving seven (7) Days' prior notice. During that period, the Organisation may refer the matter to the responsible

The Contracting Authority should notify the Organisation of its intention to terminate and the reasons thereof. The Organisation has 30 Days from the receipt of the notification to submit its observations.

The Organisation may submit a justified request for an extension of the 30-Day deadline which shall not be unreasonably denied by the Contracting Authority.

The costs incurred during the formal contradictory procedure and the 7 Days prior notice remain eligible and will be reimbursed provided they satisfy the eligibility criteria.

director in the European Commission. Where the Contracting Authority is the European Commission, the termination will take effect if and when confirmed by the director. Where the Contracting Authority is not the European Commission, the referral to the responsible director in the European Commission will not suspend the effects of the decision of the Contracting Authority. In case of termination, the Contracting Authority may demand full repayment of any amounts paid in excess of the final amount determined in accordance with Article 18 after allowing the Organisation to submit its observations. Neither Party shall be entitled to claim indemnity by the other Party on account of the termination of this Agreement.

During the 7 Days prior notice the Organisation can refer the matter to the responsible Director. This escalation has the effect of suspending the decision to terminate and the termination will take effect only if and when confirmed by the Director only where the Commission is the Contracting Authority.

In the event of termination of the Agreement pursuant to *Article 12.2* of the General Conditions, the final amount of the EU Contribution shall be determined in accordance with *Article 18* of the General Conditions on the basis of the part of the Action carried out up to the date of termination.

No indemnity or damage can be claimed by either Party on the account of the termination.

12.3

If, at any time, either Party believes that the purpose of the Agreement can no longer be effectively or appropriately performed, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement by serving sixty (60) Days written notice. In this case, the final amount shall cover:

- a) payment only for the part of the Action carried out up to the date of termination;
- b) in the situations described in Articles 11.5 and 11.6, the unavoidable residual expenditures incurred during the notice period; and,
- c) in the situations described in Articles 11.5 and 11.6, reimbursement of legal commitments the Organisation entered into for implementing the Action before the written notice on termination was received by it and which the Organisation cannot reasonably terminate on legal grounds.

The Contracting Authority shall recover the remaining part in accordance with Article 14.

In addition to the situations listed in *Article 12.1* of the General Conditions, the Agreement can be terminated if either Party believes that the purpose of the Agreement can no longer be carried out. In this case, the Parties have to consult each other to find a solution and if no agreement can be found, either Party may terminate the Agreement by serving 60 Days written notice.

The costs incurred during the consultations and the 60 Days prior notice remain eligible and will be reimbursed provided they satisfy the eligibility criteria.

The final amount of the EU Contribution shall be determined in accordance with *Article 18* of the General Conditions on the basis of the part of the Action usefully carried out up to the date of termination.

In addition, when the termination is due to reasons which are beyond the control of the Organisation, the Organisation is also entitled to the reimbursement of the unavoidable residual expenditures (i.e. costs related to the closure of the Action) incurred during the notice period. That is to say that the costs necessary for the closure of the activities financed under the Agreement will be reimbursed provided they satisfy the eligibility criteria.

The Organisation is also entitled to the reimbursement of the costs of the legal commitments it entered into for implementing the Action before the written notice

was received and which the Organisation cannot reasonably terminate on legal grounds.

For blending operation, in case of termination (with no disbursement of the EU Contribution or very partial disbursement) pursuant to *Article 12.3* special arrangements apply for the payment of the remuneration and are included in *Article 3.2* of the Special Conditions.

12.4 In the event of termination, a final report and a request for payment of the balance shall be submitted in accordance with Articles 3 and 17. The Contracting Authority shall not reimburse or cover any expenditure or costs which are not included or justified in a report approved by it.

Article 13 – Applicable law and settlement of disputes

13.1 The Parties shall endeavour to settle amicably any disputes or complaints relating to the interpretation, application or validity of the Agreement, including its existence or termination.

Amicable settlement is conceived of as the primary remedy for any disagreement concerning the interpretation, application or fulfilment of the Agreement.

In case the Contracting Authority is a Partner Country, the disputed issue can be referred to the Commission for mediation purposes, particularly when the disagreement concerns questions of interpretation of the contractual templates. The mediation by the Commission should come after the amicable settlement procedure has failed.

13.2 Where the Organisation is not an International Organisation, and the European Commission is the Contracting Authority, this Agreement is governed by EU law, complemented - if necessary - by the relevant provisions of Belgian law. In the absence of an amicable settlement in accordance with Article 13.1 above, the General Court, or on appeal the Court of Justice of the European Union, has sole jurisdiction. Such actions must be brought under Article 272 of the Treaty on the Functioning of the EU (TFEU). Notwithstanding the foregoing sentence, where the Organisation is not established or incorporated in the EU, any of the Parties may bring before the Brussels courts any dispute between them concerning the interpretation, application or validity of the Agreement, if such dispute cannot be settled amicably. Where one party has brought proceedings before the Brussels courts, the other party may not bring a claim arising from the interpretation, application or validity of the Agreement in any other

In case the Organisation is not an International Organisation, and no agreement is reached following the settlement attempt, the Parties may refer the matter to the competent judicial court – the General Court or, on appeal, the Court of Justice of the European Union. The applicable law is the EU Law, complemented by the relevant provisions of Belgian Law.

If the Organisation not an International Organisation and is not established or incorporated in the EU, the dispute may also be brought before the Brussels courts.

court than the Brussels courts before which the proceedings have already been brought.

13.3

Where the Organisation is not an International Organisation and the European Commission is not the Contracting Authority, the Agreement shall be governed by the law of the country of the Contracting Authority and the courts of the country of the Contracting Authority shall have exclusive jurisdiction, unless otherwise agreed by the Parties. The dispute may, by common agreement of the Parties, be submitted for conciliation to the European Commission. If no settlement is reached within one hundred and twenty (120) Days of the opening of the conciliation procedure, each Party may notify the other that it considers the procedure to have failed and may submit the dispute to the courts of the country of the Contracting Authority.

13.4

Where the Organisation is an International Organisation:

a) nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities accorded to any Party by its constituent documents, privileges and immunities agreements or international law;

b) in the absence of an amicable settlement pursuant to Article 13.1 above, any dispute, controversy or claim arising out of or in relation to this Agreement, or the existence, interpretation, application, breach, termination, or invalidity thereof, shall be settled by final and binding arbitration in accordance with the 2012 Permanent Court of Arbitration Rules for Arbitration, as in effect on the date of entry into force of this Agreement. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration. The arbitration proceedings must take place in the Hague and the language used in the arbitral proceedings will be English. The arbitrator's decision shall be binding on all Parties and there shall be no appeal.

In the event the Organisation is an International Organisation, when no agreement is reached, following this amicable settlement attempt, the dispute can be referred to arbitration (see *Article 13.4 b*) of the General Conditions).

Article 14 – Recovery

14.1

Where an amount is to be recovered under the terms of the Agreement, the Organisation shall repay the amount due to the Contracting Authority.

14.2

Before recovery, the Contracting Authority shall formally notify the Organisation of its intention to recover any undue amount, specifying the amount and the reasons for recovery and inviting the Organisation to make any observations within 30 Days from the date of receipt of the notification. If, after examination of the observations

Such a notification shall be sent to the Organisation's contact point designated in *Article 5.3* of the Special Conditions.

	<p>submitted by the Organisation or if the Organisation does not submit any observations, the Contracting Authority decides to pursue the recovery procedure, it may confirm recovery by formally notifying the Organisation. If there is a disagreement between the Organisation and the Contracting Authority on the amount to be repaid, the Organisation may refer the matter to the responsible director in the European Commission within thirty (30) Days. Where the Contracting Authority is the European Commission, a debit note specifying the terms and the date for payment may be issued after the deadline for the referral to the director. Where the Contracting Authority is not the European Commission, the referral to the responsible director in the European Commission will not prevent the Contracting Authority from issuing the debit note.</p>	<p>It is understood that the second period of 30 Days starts at the receipt of the confirmation of the recovery.</p>
<p>14.3</p>	<p>If the Organisation does not make the payment by the date specified in the debit note, the Contracting Authority shall recover the amount due:</p> <ul style="list-style-type: none"> a) by offsetting it against any amounts owed to the Organisation by the EU; b) by taking legal action pursuant to Article 13; c) in exceptional circumstances justified by the necessity to safeguard the financial interests of the EU, the Contracting Authority may, when it has justified grounds to believe that the amount due would be lost, recover by offsetting before the deadline specified in the debit note without the Organisation's prior consent. 	<p>The circumstances under which the Contracting Authority may proceed to offsetting are set out in Article 102 of the EU Financial Regulation.</p> <p>For EU external actions, this, in practice, applies to agreements under which the Commission makes the payments directly to the Organisation. For IPA, it also applies to Contribution Agreements signed by Contracting Authorities from Partner Country as they make the payments and not the Commission.</p>
<p>14.4</p>	<p>If the Organisation fails to repay by the due date, the amount due shall be increased by late payment interest calculated at the rate indicated in Article 17.7(a). The interest shall be payable for the period elapsing from the day after the expiration of the time limit for payment up to and including the date when the Contracting Authority actually receives payment in full of the outstanding amount. Any partial payment shall first cover the interest.</p>	
<p>14.5</p>	<p>Where the European Commission is not the Contracting Authority, it may, if necessary, proceed itself to the recovery.</p>	<p>In this case, the Contracting Authority will provide the necessary information and documents to the European Commission.</p>
<p>14.6</p>	<p>The European Commission may waive the recovery in accordance with the principle of Sound Financial Management and proportionality or it shall cancel the amount in the event of a mistake.</p>	<p>The circumstances when the Commission may waive a recovery order are set out in Article 101 of the EU Financial Regulation.</p>

Article 15 – Archiving, access and financial checks

15.1	For a period of five (5) years from the End Date and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim or investigation by the European AntiFraud Office (OLAF), if notified to the Organisation, has been disposed of, the Organisation shall keep and make available according to Article 15 all relevant financial information (originals or copies) related to the Agreement and to any Procurement Contracts and Grant agreements financed by the EU Contribution.	Supporting documents are not required in order to close the Action and make the final payment. Supporting documents must, however, be retained for 5 years after the “End Date” of the Agreement (see definition in <i>Article 1</i> of the General Conditions) and may have to be presented in the course of a verification of the Action. The five-year period may be extended, should the Organisation become aware of the initiation of any claim. In such a case, the custody of documents containing financial information and identified as potentially relevant to the claim should be extended until the claim has been dropped, settled or dismissed. Electronic copies of the originally paper versions of documents are sufficient (unless the Organisation’s rules require otherwise).
15.2	The Organisation shall allow the European Commission, or any authorised representatives, to conduct desk reviews and on-the-spot checks on the use made of the EU Contribution on the basis of supporting accounting documents and any other document related to the financing of the Action.	Please note that this Article refers to access and financial checks in the context of a specific Action. It does not in any way refer to the ex-ante assessment the Organisation has to undergo to become eligible for indirect management. Authorised representatives of the European Commission include, for example, external auditors commissioned by the European Commission to verify the Action. In case the agreement is signed between the Organisation and a Contracting Authority from a Partner Country, the agents involved in the reviews or checks are still considered representatives of the European Commission. Desk reviews and on-the-spot checks respond to the need of the Commission to rest reassured about the financial management of the Action by the Organisation. For the purpose of this Article, on-the-spot checks, desk reviews, investigations and inspections are to be understood as verifications.
15.3	The Organisation agrees that OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions laid down by EU law for the	With respect to the present Article, it is understood that the investigations will be carried out pursuant to any Administrative Cooperation Arrangement (ACA) signed between OLAF and the International Organisation (when applicable). OLAF will retain

protection of the financial interests of the EU against fraud, corruption and any other illegal activity.

the right to carry out investigations in view of protecting EU interests also in absence of an ACA.

The ACA will set out, inter alia, the details and modalities for the implementation of *Articles 15.2, 15.3 and 15.4* of the General Conditions for what concerns specifically OLAF.

For the purpose of this Article, the scope of the investigations, including on-the-spot checks, should be limited to the protection of the financial interests of the EU in relation to the Action. The references to EU law relate only to the procedures applicable to OLAF in order to carry out investigations, including on-the-spot checks.

Investigation shall mean any inspection, check or other measure undertaken by OLAF in accordance with Articles 3 and 4 of Regulation (EU, Euratom) 2020/2223 amending Regulation (EU, Euratom) 883/2013, with a view to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the competent authorities of the Member States to initiate criminal proceedings.

a) General rules

For the cooperation between OLAF and the Organisation under this Article, the following general rules apply:

i. Privileges and immunities

In its investigations, OLAF will respect any privileges and immunities to which the organisation may be entitled to.

ii. Confidentiality

Information communicated to OLAF is protected by professional secrecy in accordance with Article 10 of Regulation (EU, Euratom) 2020/2223 amending Regulation (EU, Euratom) 883/2013.

iii. Personal data protection

OLAF will handle and process any personal data received from the Organisation in accordance with Regulation (EU) 2018/1725.

iv. Contact person

The Organisation should designate a contact person for the exchange of information and any other communication related to the investigative cooperation with OLAF.

b) Administrative cooperation arrangement with OLAF

Some Organisations have established an Administrative Cooperation Arrangement (ACA) with OLAF.

c) Practical guidelines for the investigative cooperation between OLAF and the organisation

Exchange of information: in accordance with *Article 15* of the General Conditions, OLAF may submit a written request to the Organisation to ask necessary information or documents concerning the technical and financial management of operations. When requesting such information or documents, OLAF will state the purpose of the request, what information or documents are requested and the time in which it would like the information to be provided.

The requested documents or information may be provided by any means, including in paper or electronic form, attached to a note, e-mail or during meetings, and may be copied, kept, stored and used for the purpose of OLAF investigations in connection with operations financed under the relevant Agreement.

When appropriate, OLAF and the Organisation may agree to set up *ad hoc* joint or parallel investigations in order to conduct checks and inspections or other investigative activities.

15.4

The Organisation agrees that the execution of this Agreement may be subject to scrutiny by the Court of Auditors when the Court of Auditors audits the European Commission's implementation of EU expenditure. In such case the Organisation shall provide to the Court of Auditors access to the information that is required for the Court to perform its duties.

This provision has to be interpreted in light of the powers of the European Court of Auditors set out in Art. 287 TFEU.

In case the Commission or any authorised representatives, OLAF or the European Court of Auditors, request information or documents which the Organisation considers confidential, the Organisation should provide such information. The way of sharing the information will take into account the Organisation's policy on information disclosure.

15.5

To that end, the Organisation undertakes to provide officials of the European Commission, OLAF and the European Court of Auditors and their authorised agents, upon request, information and access to any documents and computerised data concerning the technical and financial management of operations financed under the Agreement, as well as grant them access to sites and premises at which such operations are carried out. The Organisation shall take all necessary measures to facilitate these checks in accordance with its Regulations and Rules. The documents and computerised data may include information that the Organisation considers confidential in accordance with its own established Regulations and Rules or as governed by contractual agreement. Such information once provided to the European Commission, OLAF, the European Court of Auditors, or any other authorised representatives, shall be treated in accordance with EU confidentiality rules and legislation and Article 6. Documents must be accessible and filed in a manner permitting checks, the Organisation being bound to inform the European Commission, OLAF or the European Court of Auditors of the exact location at which they are kept. Where appropriate, the Parties may agree to send copies of such documents for a desk review.

As a preliminary remark, by default and in the absence of specific arrangements referred to in *Art. 15.5*, the Commission will apply its rules and procedures for verification purposes.

Previous monitoring, evaluation, European Court of Auditors or OLAF missions relating to the Action may not be invoked by the Organisation to refuse a verification on that same Action.

The decision to conduct a verification can be taken by the Contracting Authority. While considering whether to do so, the Contracting Authority should take into account the following:

- a) timing – ideally the verification should take place during the lifetime of the Action;
- b) previous verifications - have there already been any (by INTPA/NEAR or other Commission's service) conducted on the same project or office or Organisation? If so what were the findings? Repetitions/multiplications should be avoided;
- c) is there any audit information on the project (co)funded by the EU? If so, the Contracting Authority may request that such information be provided, where possible and available, and – based on the information provided – decide whether the verification mission is still necessary.

Conduct of a verification mission:

The decision to conduct a verification mission should be announced to the International Organisation in due time.

The Commission's Authorising Officer should ensure that the verification team is properly briefed by the Commission on the verification process, its scope, nature, conduct and outcome. There may be differences in verification procedures depending on the Organisation.

The *draft report* will be transmitted to the Organisation as soon as it is available. The Organisation will review the report and provide its comments which shall be reflected

in the report. As a result, certain findings may be cancelled or adjusted. A copy of the final verification report will be transmitted to the Organisation as per the agreed communication lines. All this shall be done in a timely manner.

The reports are not public. Requests to access such reports will be analysed on a case-by-case basis in consultation with the Organisation concerned before any communication of the report. These documents are subject to the Regulation (EC) No 1049/2001 regarding public access to EU documents, and in particular its Article 4.

The final report and follow-up on the findings
A final report is a management tool at the disposal of the Contracting Authority.

It is not an audit report and therefore should not be considered as presenting an audit opinion.

The responsibility to follow-up on factual findings lies with the operational and/or the financial officers who requested the verification.

If there are financial findings, a contradictory procedure between the Contracting Authority and the Organisation subject to verification should be started in order for the Organisation subject to verification and the Contracting Authority to discuss the findings indicated in the final report of the verification. For instance, for amounts considered ineligible by the verifiers for EU funding and contested by the Organisation, the Contracting Authority should examine whether the amount concerned is indeed ineligible (the eligibility criteria are set out in each agreement concluded between the Commission/Contracting Authority and the Organisation).

In case the parties cannot agree on certain findings in the final report, the case should be reported to the next hierarchical level.

Ineligible costs found may lead to a recovery of the concerned amount by the Commission/Contracting Authority. In such a case, the terms of the specific contract/agreement must be reviewed to determine the amount to be recovered taking into account e.g. whether the Action is fully-funded by the EU, whether the EU Contribution is reflected as a percentage of eligible costs, etc.

In practical terms, only after receipt and examination of the comments of an Organisation concerning the findings might there be a pre-information notice and a subsequent debit note.

Other findings shall be addressed within the framework of the Action (if it is still ongoing) or in the context of the broader cooperation with the Organisation (for future projects). In practical terms, the operational or financial officer shall convene a meeting with the Organisation during which the correctness (*vis-à-vis* provisions of a specific agreement and applicable FFPAs) of the findings should be reviewed. Where possible, a mutually acceptable way forward shall be agreed.

15.6 Where applicable, the desk reviews, investigations, on-the-spot checks and inspections referred to in Article 15.2 to 15.5 shall refer to a verification that shall be performed in accordance with the verification clauses agreed between the Organisation and the European Commission. This is without prejudice to any cooperation arrangement between OLAF and the Organisation's anti-fraud bodies.

Verifications should be carried out in accordance with verification clauses concluded with Organisations in the corresponding FFPAs (examples are the UN Organisations, COE, CEB, OECD, IMF, among others). Any such verification clause agreed between the Commission and the Organisation shall not affect the powers of OLAF and the Organisation's obligations *vis-à-vis* OLAF.

Additionally, this Article makes applicable any Administrative Cooperation Arrangement between the Organisation and OLAF.

This Article does not in any respect limit the powers of OLAF as set out in *Articles 15.1 to 15.5* of the General Conditions.

15.7 The European Commission shall inform the Organisation of the planned on-the-spot missions by agents appointed by the European Commission in due time in order to ensure adequate procedural matters are agreed upon in advance.

15.8 Failure to comply with the obligations set forth in Article 15 constitutes a case of breach of a substantial obligation under this Agreement.

This provision reinforces the importance of cooperation with OLAF, the European Court of Auditors and (other) representatives of the Commission. In case of non-compliance, the Contracting Authority may apply the measures provided for in the Contribution Agreement (including suspension and termination of the Agreement) or the EU Financial Regulation.

Article 16 – Eligibility of costs

16.1 Direct costs are eligible for EU financing if they meet all the following criteria:

Direct eligible costs can be charged either on an actual basis (*Article 16.1* of the General Conditions) or as simplified costs options (*Article 16.5* of the General Conditions).

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- a) they are necessary for carrying out the Action, directly attributable to it, arising as a direct consequence of its implementation and charged in proportion to the actual use;
 - b) they are incurred in accordance with the provisions of this Agreement;
 - c) they are actually incurred by the Organisation, i.e. they represent real expenditure definitely and genuinely borne by the Organisation, without prejudice to Article 16.6;
 - d) they are reasonable, justified, comply with the principle of Sound Financial Management and are in line with the usual practices of the Organisation regardless of their source of funding;
 - e) they are incurred during the Implementation Period with the exception of costs related to final report, final evaluation, audit and other costs linked to the closure of the Action which may be incurred after the Implementation Period;
 - f) they are identifiable and backed by supporting documents, in particular determined and recorded in accordance with the accounting practices of the Organisation;
 - g) they are covered by one of the sub-headings indicated in the estimated budget in Annex III and by the activities described in Annex I; and
 - h) they comply with the applicable tax and social legislation taking into account the Organisation's privileges and immunities.

For the avoidance of doubt, the provisions of the Contribution Agreement on the eligibility of costs refer to the eligibility of costs for the EU financing, except where the maximum EU Contribution is also expressed as a percentage of total eligible costs (i.e. in the context of calls for proposals).

In order to be eligible, costs have to:

Article 16.1 a):

Be necessary for the implementation of the Action, i.e. they would not be incurred if the Action did not take place. It is essential to explain which specific resources and related costs are needed for the implementation of the Action (this can be done in Annex I (Description of the Action) and Annex III (Budget of the Action), with the appropriate level of detail).

Costs related to Audits and Verifications:

In case the Action should be specifically audited or verified (e.g. as per request by the Contracting Authority) and this is agreed by the Parties and mentioned in Annex I (Description of the Action) and in Annex III (Budget of the Action), the underlying costs can be considered as direct eligible costs, provided that eligibility criteria set out under *Article 16.1* of the General Conditions are met.

In all the other cases, when audits are carried out on the initiative of the Organisation but not agreed at the signature of the Agreement with the Contracting Authority (for example systemic/annual/ad-hoc audit on an Action), such costs will be considered as part of the remuneration, under *Article 16.3* of the General Conditions.

In case an Audit Opinion has to be submitted in accordance with *Articles 3.11* and *3.12* of the General Conditions, the Audit Opinion (either globally or project by project) is deemed to be systemic and always covered by the remuneration.

Article 16.1 b):

Incurring costs are costs which represent real expenditure definitely and genuinely borne by the Organisation (and, where applicable, the Partner(s)) with reference to a specific time period (see also description in subparagraph c)).

To be eligible, costs have to comply with the provisions of the Contribution Agreement, such as *Article 20* of the General Conditions on contracting.

Article 16.1 c):

Be actually incurred, i.e. the costs are real and generated an obligation to be paid by the Organisation.

Costs related to Procurement Contracts are incurred when services are rendered, supplies are delivered and works are carried out for the purpose of the Action and they have been **verified or accepted**, regardless of the date of the actual payment. Similarly, costs related to Grants are incurred when the related action has been **verified or accepted**, regardless of the date of the actual payment.

For example, when (the first) pre-financing is paid by the Contracting Authority to a third party, this amount is not considered incurred yet. When the action is accepted/verified, then this amount will be considered incurred.

Additionally, in cases where there is no pre-financing to a third party, if the action has been verified or accepted, the committed amount is considered incurred even if not yet paid.

Article 16.1 e)

Be incurred during the Implementation Period, which does not necessarily mean that the costs have to be paid during the Implementation Period.

The costs relating to services or equipment supplied in order to carry out the Action may be invoiced and paid after the end of the Implementation Period, provided that the service/goods were in fact supplied during the Implementation Period.

The cost of audits for the purpose of subparagraph e) only refers to audits linked to the closure of the Action.

Regarding cost of audits, please see above (subparagraph a)).

Costs linked to the closure of the Action (e.g. costs of staff necessary for the closure, costs related to communication and visibility activities) may be incurred after the Implementation Period.

Cost related to the closure are only eligible if incurred during the closure period but not later than the submission of the final report.

Negative interest incurred during the 'closure period' of the Agreement may be considered as eligible, subject to (a) the condition that there is an active avoidance strategy in place and (b) additional reporting requirements.

Article 16.1 f):

All the costs incurred – corresponding to the entire budget of the Action and not only to the EU Contribution – must be recorded in the accounts of the Organisation. The supporting documents (tenders, orders, vouchers, invoices, receipts etc.) must exist, be available for inspection and accurately reflect the recorded costs. See also *Article 16* of the General Conditions for more details.

It is strongly advisable for the Organisation to keep (electronic) copies of all relevant documents and accounts and to carry out ex-ante and -where applicable based on its risk assessment processes - ongoing intermittent checks to ensure that supporting and accounting documents are available, correct, and duly filed and recorded.

Costs expressed as unit costs, percentage or lump sum may be eligible direct costs but they are not **actually** incurred because they are not clearly identifiable nor backed up by supporting documents proving that they represent real expenditure definitely and actually incurred (not complying with letter c) and f) of the Article). The same reflection applies to up-lifts on salary costs, costs claimed by the Organisation or a Partner based on its own universal price list(s) and post occupancy charges (among others).

This type of costs is eligible costs only if authorised in the form of simplified cost options in accordance with *Article 16.5* and following of the General Conditions. Otherwise, they shall be covered by the remuneration.

Article 16.1 g):

In principle, only those cost items that have been approved in the Annex III (Budget of the Action) and Annex I (Description of the Action) are eligible, although it is

possible to remove a budget item or introduce a new one. The relevant Contribution Agreement may be amended in accordance with *Article 10* of the General Conditions. Please note that costs included in the budget are provisional and that only costs actually incurred can be reported.

In all doubtful cases, it is advisable to discuss and, if possible, agree in writing with the Contracting Authority beforehand.

Article 16.1 h):

The Organisation is fully responsible for the coordination and execution of all activities and has to ensure compliance with local, national and other applicable legislation. It must respect its applicable rules, procedures and policies.

The Organisation is responsible for verifying and consolidating the information that will be provided to the Contracting Authority.

As a rule, the Organisation bears the ultimate financial responsibility for the entire Action and must reimburse to the Contracting Authority any cost declared ineligible. However, see *Article 6* of Annex II.a in cases where pillar assessed Partners implement part of the Action: each pillar assessed Partner is financially responsible for the part of the Action to be implemented by it.

For Multi-Partner Agreements:

Costs incurred by the Organisation pursuant to its tasks as coordinator (i.e. related to the coordination of the payments and reporting of the Action) are considered to be directly eligible, provided that all the criteria of *Article 16.1* of the General Conditions are met.

For Actions involving Affiliated Entities (see Annex II.b):

Costs incurred by Affiliated Entities which are identified in the Special Conditions (as indicated in Annex II.b) will also be accepted as eligible. In this case, the Affiliated Entities concerned have to abide by the same rules applicable to the Organisation with regard to the eligibility of costs and the rights of checks and audit/verification by the Commission, OLAF and the European Court of Auditors.

The Organisation is responsible for monitoring the correct implementation of the Action and for verifying and consolidating the information that will be provided to

		<p>the Contracting Authority. Therefore, the Organisation should also make sure that the conditions for the eligibility of costs are met, through appropriate supervision of the Affiliated Entities, and appropriate internal arrangements.</p>
<p>16.2</p>	<p>A reserve for contingencies and/or possible fluctuations in exchange rates - not exceeding 5 % of the direct eligible costs - may be included in Annex III to allow for adjustments necessary in the event of unforeseeable changes of circumstances on the ground. In such case, the reserve can be used only with the prior written authorisation of the Contracting Authority, upon a duly justified request from the Organisation.</p>	<p>It is assumed that when the contingency is used, the Organisation consumes first other sources of funds and only if the last part of the contingency (corresponding to the EU's share of it) is needed, the Organisation should request a prior written authorisation from the Contracting Authority. Such written authorisation may also be provided by email.</p>
<p>16.3</p>	<p>The following costs may not be considered eligible direct costs, but may be charged as part of the remuneration: all eligible costs that, while necessary and arising as a consequence of implementation, are supporting the implementation of the Action and not considered part of the activities that the European Union finances as described in Annex I, including corporate management costs or other costs linked to the normal functioning of the Organisation, such as horizontal and support staff, office or equipment costs (except when duly justified and described in Annex I, such as a project office).</p>	<p><i>Article 16.3</i> of the General Conditions sets the general criteria to define whether a cost should be qualified as a direct cost or remuneration.</p> <p>The distinction is not necessarily based on the localisation of the costs, but on their nature. As a general principle, in case the Organisation would have borne the concerned costs, had the Action financed by the EU not taken place, such costs should be considered as covered by the remuneration. This would also be the case if the Organisation was able to allocate such costs to individual actions.</p> <p>These are costs typically associated with the normal functioning of the Organisation and the performance of its institutional and representation tasks. Some examples of horizontal and support staff are staff from human resources, legal affairs, IT and equipment staff. The concept of corporate management costs covers managerial functions which, while giving a contribution to the Action, only marginally deal with its implementation.</p> <p>Costs incurred at the Organisation's headquarters are generally not considered as direct costs, unless they fulfil all of the following conditions and therefore are:</p> <ol style="list-style-type: none"> a) necessary for carrying out the Action, directly attributable to it, arising as a direct consequence of its implementation; b) included in the Budget and in the Description of the Action; c) charged in proportion to the actual use; and d) authorised by the Contracting Authority. <p>The costs that do not fulfil these cumulative conditions will be covered by the remuneration (maximum 7%).</p>

Therefore, to avoid confusion or problems at latest stage, a specific assessment of the costs should be made on a case-by-case basis and described in detail in Annex I (Description of the Action) and Annex III (Budget of the Action),.

It is stressed that reimbursement of project office costs is eligible only when the following criteria are satisfied:

- a) the implementation of the Action requires deployment of staff to manage operations in the field or set up an office at another location. At the phase of contracting, the operational units (with the support of the finance and contract unit) shall carry out an assessment of the need of using/setting up a project office and shall include in the Description of the Action and the Budget information related to the Project Office.
- b) the costs of the project office charged to the Action are additional to the normal functioning of the Organisation i.e. they are directly linked to the implementation of the Action and arise as a consequence of it;
- c) the costs comply with the costs eligibility criteria referred to in *Article 16.1* of the General Conditions;
- d) the costs fall within one of the categories specified in *Article 7.1* of the Special Conditions. Not all the categories indicated have necessarily to be considered eligible; it could be that for a specific Action only some of these categories are relevant (no derogation is needed in this case).

It is underlined that indirect costs claimed by Beneficiaries of Grants awarded by the Organisation and/or its partners are to be covered by the direct eligible costs of the Action and not by the remuneration.

16.4

The remuneration shall be declared on the basis of a flat-rate which shall not exceed 7% of the total eligible direct costs to be reimbursed by the Contracting Authority. The remuneration does not need to be supported by accounting documents. For Multi-Donor and comparable actions, the remuneration shall not be higher than that charged by the Organisation to comparable contributions.

The flat-rate not exceeding 7% is calculated as a percentage of the final amount of the direct eligible costs. The exact amount due to an Organisation will only be known after the direct eligible costs have been established by the Contracting Authority on the basis of the final report.

Note that different remuneration rules apply in the context of blending operations (see *Article 3.2* of the Special Conditions).

Example of how to calculate the percentage of remuneration in a joint co-financed Action:

If an Action is jointly co-financed, the budget shall cover the total cost of the Action without differentiating between the EU contribution and the contribution of other donors.

The calculation will be the same regardless of whether the EU and the Organisation are the only contributors or other Donors are also included. For both cases, the EU cannot pay a higher percentage for remuneration than the other contributors. This is especially important in the case of joint co-financing where the budget covers the total Action.

The example below includes contingencies as well.

	EU Contribution	Contribution Other Contributor	TOTAL (EUR)
1. Budget line
.... 1 to 6
Budget of 1 to 6
7. Total direct eligible costs (1 to 6)	4 464 286.00
8. Remuneration (max 7%)	312 500.00
9. Total eligible costs (7+8)	4 776 786.00
10. Contingencies (max 5%)	223 214.00
11. Total costs (9+10)	4 000 000.00	1 000 000.00	5 000 000.00

If full use of contingencies is authorised, the contingencies shall be distributed as such:

Contingencies amount that corresponds to direct costs =

Contingencies / (1+remuneration percentage) = 223 214/1.07= EUR 208 611.

Contingencies amount that correspond to remuneration =

Contingencies amount to be added to the direct costs * remuneration percentage =
208 611 215 * 0.07 = EUR 14 603.

Therefore the updated budget (including contingencies added both to direct cost and remuneration) would be:

	EU Contribution	Contribution Other Contributor	TOTAL (EUR)
1. Budget line
... 1 to 6
Budget of 1 to 6	
7. Total direct eligible costs (1 to 6)	4 672 897
8. Remuneration (max 7%)	327 103
9. Total eligible costs (7+8)	4 000 000	1 000 000	5 000 000

On the basis of this updated budget, as the EU Contribution is EUR 4 000 000, the share of remuneration covered by the EU Contribution cannot exceed the following proportion:

EU share of remuneration / EU Contribution = Total remuneration / Total Eligible Cost.

Therefore:

EU share of remuneration = (Total Remuneration * EU Contribution) / Total Eligible Cost = EUR 261 682.

Therefore, the share of remuneration covered by the EU Contribution cannot be more than EUR 261 682.

It is important to note that the rest of the remuneration (which corresponds to the other contributor = EUR 65 421) cannot be added to the direct costs without increasing the total cost of the Action. In that case, the direct costs would be EUR 4 672 897.00 + EUR 65 421 = EUR 4 738 318. Consequently, the remuneration would be: 7% * EUR 4 738 318 = EUR 331 682 and the total cost of the Action would become EUR 5 070 000. However, in this case what would not change is the remuneration to the Commission (which still would not be more than EUR 261 682) and of course the total EU Contribution.

16.5

The following costs are ineligible for EU financing:

- a) bonuses, provisions, reserves or non-remuneration related costs. Employers' contributions to pension or to any other employee insurance funds run by the Organisation shall only be eligible to the extent they do not exceed the cost incurred during the reporting period, calculated following applicable international accounting standards;
- b) full-purchase cost of equipment and assets unless the asset or equipment is specifically purchased for the Action and ownership is transferred in accordance with Article 8;
- c) duties, taxes and charges, including VAT, that are recoverable/deductible by the Organisation;
- d) return of capital;
- e) negative remuneration (otherwise referred as 'negative interest') charged by banks or other financial institutions;
- f) debts and debt service charges;
- g) provision for losses, debts or potential future liabilities;
- h) banking charges for the transfers from and to the Contracting Authority³;
- i) costs incurred during the suspension of the implementation of the Agreement except the minimum costs agreed on in accordance with Article 11.8;
- j) costs declared by the Organisation under another agreement financed by the European Union budget (including through the European Development Fund);
- k) in-kind contributions. The cost of staff assigned to the Action and actually incurred by the Organisation is not an in-kind contribution and may be declared as a direct eligible cost if it complies with the conditions set out in Article 16.1;

Article 16.5 a)

For the avoidance of doubt, a bonus is to be understood as a payment of a "bonus" triggered by the participation of a staff member in the EU funded Action or that is in any way linked to the performance of the person in the Action or the performance of the Action itself is not an eligible cost. However, there are payments that might be called in a similar way and which could still be considered as a part of the normal salary package and therefore eligible (i.e. variable parts of the salary). Those payments have to be paid independently of the participation of the staff member in the EU funded Action.

For example, bonuses based on the overall performance of the Organisation may be accepted, in case such bonuses are incurred during the implementation period, if they are part of the usual remuneration practices of the Organisation. On the other hand, any part of the remuneration that is based on commercial targets or fund raising targets is not eligible (because neither incurred in connection with the work described in Annex 1 of the action nor necessary for its implementation). Also, bonuses which are not part of the Organisation's usual remuneration practices and/or which are not based on objective conditions should be excluded.

Article 16.5 c)

Value Added Tax (VAT) that is not recoverable shall also be considered eligible under the Contribution Agreement if incurred in the country in which the Organisation's headquarters is located. For VAT in Partner Countries (also eligible if the requirements of *Article 16.4 c)* are fulfilled), please be aware that there may be relevant arrangements with the Partner Country.

³ The party causing a repetition of a transfer bears all costs of the repeated transfer.

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- l) costs of purchase of land or buildings, unless otherwise provided in the Special Conditions; and
m) Simplified cost options.

How can the Organisation show that it is not tax-exempted and that it cannot recover taxes?

The Organisation must be able to show that it is not tax exempted and that it cannot recover taxes under the applicable national law. The Organisation should undertake the necessary steps to obtain an exemption or the recovery of paid taxes vis-à-vis the relevant authorities.

Evidence may take the following forms:

- An official document from the competent tax authority stating that the Organisation is not entitled to reclaim taxes incurred for the activities in question (and that this does not depend on the simple fact that it does not wish to be subject to VAT). This official document may be a specific declaration or a refused claim for reimbursement by the competent tax authority.
- The absence of a reply by the competent tax authority within the legal deadline set by the applicable national law to a request submitted in due time (or 6 months in the absence of a legal deadline).
- The entity's annual accounts complemented, if deemed necessary by the contracting authority, for example by an extract of the national VAT tax law showing that the entity does not have to account for VAT, a declaration of honour from the entity concerned accompanied by an expert statement (e.g. by a lawyer, auditor etc.).

However, in the following cases, the Organisation does not need to undertake the necessary steps to obtain an exemption or the recovery of paid taxes vis-à-vis the relevant authorities

- 1) **Low value taxes:** no proof needs to be provided for taxes for expenses where the amount of taxes per invoice is less than EUR 200, within a maximum of EUR 2 500 per contribution agreement, representing not more than 5 % of the contracting authority's contribution.
- 2) **Reimbursement of local expenses, including all taxes:** the following cases will be considered as evidence that the Organisation has attempted to take the necessary steps to obtain exemption or recovery of taxes from the competent authorities:

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- a. Excessive cost for tax recovery
 - i. The Organisation demonstrates that the steps necessary for recovery of taxes oblige it to incur costs in a country where it only performs the relevant operations on an ad hoc, one-off basis; and/or
 - ii. The Organisation shows that the recovery costs (registration fees in the country or the cost of appointing a tax representative, declaration fees, etc.) clearly exceed the amount of the taxes declared to the contracting authority.
 - b. Excessive length of time for obtaining tax exemption: where a mechanism for tax exemption has to be agreed for by the relevant authorities prior to the purchase of goods or services and where the Organisation can demonstrate that the excessive length of time for this prior authorisation endangers the implementation of the action.
- 3) **Crisis situation:** no evidence needs to be provided where a country has been declared in crisis or in need of emergency and post-emergency assistance by the European Commission and as long as the country remains in that situation.
- 4) **Projects for the protection of fundamental rights of peoples:** It is understood that in the case of projects with a human rights dimension, an attempt to recover taxes may not be possible, by virtue of the nature of the project and/or the context of the intervention.

When a VAT reimbursement is received by the Organisation after the payment of the balance has been carried out by the Contracting Authority following the provisions of *Article 17*, in which the Contracting Authority deemed the VAT to be eligible, the VAT costs must be reimbursed to the Contracting Authority (as it would otherwise no longer satisfy the eligibility criteria under *Article 16*). In such cases, the Organisation must contact the Contracting Authority, which will issue a recovery order/debit note related to the VAT cost in question.

VAT paid in the context of an agreement between the Organisation and another donor or contributor (such as a national government that also contributes to the Action) is not eligible for EU funding.

Article 16.5 e)

Negative remuneration also known as negative interests is the fee, the bank is charging the client for keeping the amount on client's bank account. The costs is in principle ineligible, unless the Organisation develop a mitigating strategy, on how to avoid keeping excessive funds on its banking account, in order to avoid being charged the negative interests. Such mitigation strategy must be agreed with the Contracting authority in advance.

Article 16.5 k)

In-kind contributions are to be understood as non-financial resources made available free of charge by third parties to the Organisation and/or to Partner(s) (e.g.

Article 16.5 m)

Please see further *Article 16.9* here below.

16.6

Direct eligible costs may also be declared by using any or a combination of unit costs, lump sums and flat-rate financing.

Simplified cost options may take the form of:

- a) unit costs: these cover all or certain specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage) and are expressed in amounts per unit. Example: unit cost per working month for personnel costs based on internal policies and average (payroll) costs; unit costs for small local transportation or other expenses in rural areas (often in expense categories with many small value items and/or with poor documentation), per diems etc.
- b) Per diems are not considered as a simplified cost option for the purposes of EU financing when the Organisation reimburses a fixed amount to its staff in accordance with its staff rules and requests for the reimbursement of that amount in the Budget of the Action. Such per diems are considered actual costs.
- c) lump sums: these cover in global terms all or certain specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage). Example: global cost for the Organisation of an opening event, global cost for the production of information videos etc.

-
- d) flat-rate financing: this covers specific categories of eligible costs which can be clearly identified (must be indicated in the Budget at proposal stage) and are expressed as a percentage of other eligible costs. Example: local office costs and related expenses (maintenance, security, a shared car etc.) charged as a percentage of staff costs, remuneration, etc.

Simplified cost options can apply to one or more of the direct cost headings of the budget, or to sub-cost headings or to specific cost items within these cost headings.

If the Organisation wishes to include simplified cost options, it must introduce them during the negotiations, i.e. before the agreement is signed.

The Contracting Authority will decide whether such costs can be accepted during the contracting phase on the basis of the Budget submitted.

Particular attention should be paid to explaining how costs are calculated and budgeted. More specifically, a clear explanation shall be given for those costs that are relevant or not easily justifiable because, for instance, they are especially expensive (compared to other similar items) and/or relating to quantity purchases.

The explanation should be provided at proposal/negotiation stage in the budget, and/or as appropriate in the reports to understand their relationship with the results/activities of the Action.

This is especially important in the case of simplified cost options under *Article 16.5 - 16.10* of the General Conditions where for each corresponding budget item or heading, the text must:

- a) describe the information and methods used to establish the amounts of unit costs, lump sums and/or flat-rates;
- b) explain the formulas for the calculation of the final eligible amount;
- c) identify the Organisation or Partner who will use the simplified cost option (in case of affiliated entities, the relevant Organisation/Partner should be specified first).

16.7

The methods used by the Organisation to determine unit costs, lump sums or flat-rates shall comply with the principles provided in Articles 16.1, 16.3 and 16.5, be clearly described and substantiated in Annex III, shall avoid double funding of costs and shall respect the principle of Sound Financial Management. These methods shall

It is underlined that the methods used by the Organisation to determine simplified cost options, not linked to the achievement of concrete Results, which have been positively ex-ante assessed by the Commission (see article 16.9) do not need to be '*clearly described and substantiated in Annex III*'. Indeed, for a detailed description on

	be based on the Organisation's historical or actual accounting data, its usual accounting practices, an expert judgment or on statistical or other objective information where available and appropriate.	how such simplified cost options are determined by the Organisation, you may refer to the 'Central Repository of pillar-assessed entities' available on BUDGpedia.
16.8	Costs declared under simplified cost options do not need to be backed by accounting or supporting documents except if they are necessary to demonstrate that the costs have been declared according to the declared method or cost accounting practices and that the qualitative and quantitative conditions defined in Annex I and III have been respected.	
16.9	Simplified cost options not linked to the achievement of concrete Results shall only be eligible if they have been ex ante-assessed by the European Commission.	<p>If there is no ex ante-assessment, simplified cost options not linked to the achievement of concrete Results cannot be used and the reimbursement will be based on costs actually incurred or performance-based financing.</p> <p>Please note that the Organisation and/or its partner(s) may choose to declare, where appropriate and relevant, travel, accommodation and subsistence costs based on the dedicated Commission Decision of 12.1.2021 authorising the use of unit costs for travel, accommodation and subsistence costs under an action or work programme under the 2021-2027 multi-annual financial framework (C(2021) 35 final).</p> <p>Please note that this provision would not normally apply to 'simplified cost options' (not linked to the achievement of concrete Results) invoiced by Contractors or Grant Beneficiaries to the Organisation/Partners. Indeed, in such cases, the corresponding costs that are claimed by the Organisation/Partners to the Contracting Authority would normally be based on invoices and would thus be considered as 'actual costs'.</p> <p>It is underlined that the methods used by the Organisation to determine simplified cost options, not linked to the achievement of concrete Results, which have been positively ex-ante assessed by the Commission do not need to be <i>'clearly described and substantiated in Annex III'</i>. Indeed, for a detailed description on how such simplified cost options are determined by the Organisation, you may refer to the 'Central Repository of pillar-assessed entities' available on BUDGpedia.</p>
16.10	If a verification reveals that the methods used by the Organisation to determine unit costs, lump sums or flat-rates are not compliant with the conditions established in this Agreement, the Contracting Authority shall be entitled to recover proportionately up to the amount of the unit costs, lump sums or flat-rate financing.	If a verification/audit reveals that the calculation methods used by the Organisation, Partner or affiliated entity to determine unit costs, lump sums or flat-rates are not in line with relevant conditions or factual information (e.g. the generating events have not occurred), the Contracting Authority may establish such costs as not eligible and recover or offset up to the amount of the simplified cost options used.

Article 17 – Payments

17.1

Payment procedures shall be as follows:

- a) the Contracting Authority shall provide a first pre-financing instalment as set out in Article 4.1 of the Special Conditions within thirty (30) Days of receiving the Agreement signed by both Parties;
- b) the Organisation may submit a request for further pre-financing instalment for the following reporting period in accordance with Article 4 of the Special Conditions; the following provisions apply:
 - i) the reporting period is intended as a twelve-month period, unless otherwise provided for in the Special Conditions. When the remaining period to the end of the Action is up to eighteen (18) months, the reporting period shall cover it entirely;
 - ii) if at the end of the reporting period less than 70% of the last payment (and 100% of previous payments, if any) has been paid by the Organisation to its staff or otherwise subject to a legal commitment with a third party, the further pre-financing payment shall be reduced by the amount corresponding to the difference between the 70 % of the immediately pre-financing payment (and 100% of previous payments, if any) and the part of the previous pre-financing payments which has been paid by the Organisation to its staff or has been subject to a legal commitment with a third party;
 - iii) the Organisation may submit a request for further pre-financing payment before the end of the reporting period, once more than 70 % of the immediately preceding payment (and 100% of previous payments, if any) has been paid by the Organisation to its staff or otherwise subject to a legal commitment with a third party. In this case, the following reporting period starts anew from the end date of the period covered by this payment request;
- c) at the end of the Implementation Period, the Organisation shall submit a payment request for the balance, where applicable, together with the final report. The amount of the balance shall be determined according to Article 18 and following approval of the request for payment of the balance and of the final report; and
- d) the Contracting Authority shall pay the further pre-financing instalments and the balance within ninety (90) Days of receiving a payment request accompanied by a progress or final report, unless the time limit for payment was suspended according to Article 11 or 12.

The agreed pre-financing rate is stated in *Article 4.1* of the Special Conditions. For Contribution Agreements signed following a call for proposals, the rate of pre-financing should be announced in the respective call.

In order to agree on the amount of the first pre-financing, the Organisation has to provide either a detailed forecast budget for the first year or, where this is not feasible, a justification of how the amount has been calculated. It is important to ensure that such forecasts or justifications are thoroughly analysed, notably, with due regard to the description of the Action, and discussed, where necessary, with the Organisation. This is to avoid, as far as possible, the underachievement of the initial forecasts or justifications based on which first pre-financings are disbursed.

The determination of the amount of the pre-financing instalments corresponds to this percentage of the part of the forecast budget for the following reporting period of the Action which is being financed by the Contracting Authority, excluding not authorised contingencies for external Actions.

Please note that the FFPA's may contain provisions on the rate of pre-financing and allow for 100% pre-financing under specific circumstances (see also explanations in Article 4.2 of the Special Conditions)

The contingency reserve is not considered in the payments until, and unless, approved, as it will not be disbursed if not needed. This means that it should not be budgeted in the requests for pre-financing. Once approved, it will be reflected in the relevant budget lines and therefore treated like the other budgeted/eligible costs.

An initial pre-financing payment will be made after the Agreement has been signed by both Parties. This payment will cover a percentage of the Contracting Authority's contribution to budgeted costs for the first year, as stated in *Article 4.1* of the Special Conditions.

Please note that the first pre-financing instalment can also, exceptionally, be provided upon a related request for payment, as long as this is specified in *Article*

7.2x of the Special Conditions (without the need to encode a derogation/exception request).

Also note *Article 17.6* of the General Conditions that stipulates if no payment has been made within two years from the signature of the Agreement, the Agreement shall be terminated. Consequently, and in accordance with *Article 114 (6)* of the EU Financial Regulation, the relevant amount has to be decommitted.

Example of calculation of the pre-financing instalments:

The Contracting Authority is contributing 50% of the total eligible costs of a project. The pre-financing rate stated in *Article 4.1* of the Special Conditions is 80%. The Budget for the first year is EUR 100 000, after deduction of the contingency reserve.

The initial pre-financing instalment may be EUR 40 000, which is 80% of EUR 50.000, i.e. of the part of the eligible costs which is financed by the Contracting Authority.

The further pre-financing instalments are intended to be split among the reporting periods. However, they can be also presented as a single global amount in the Special Conditions because the actual pre-financing instalments are based on the updated budget forecast for the following reporting period, as presented by the Organisation.

Nevertheless, with respect to Contribution Agreements, where there is high level of certainty in the amounts, the further pre-financing instalments can be broken down per payments and reflected already in the contract. This option is stated in footnote 10 of *Article 4.2* of the Special Conditions.

For Contribution Agreements after a call for proposal, the Contracting Authority's percentage contribution to the forecast budget usually corresponds to its percentage contribution to the eligible costs as set out in *Article 3.1* of the Special Conditions (as indicated in Annex IIb). Note that for Actions where the "accepted cost system" is used, the Contracting Authority's percentage contribution to total "accepted costs" and total "eligible costs" will be different (for further information on the "accepted cost system", please refer to the PRAG Guidelines for Applicants). The adjustment to ensure the co-financing will be done at the end of the Action, with the final payment, according to *Article 18* and *20* of the General Conditions. Please see the explanation to the standard supplementary provision 7.1.X on accepted costs system.

Example: The maximum EU contribution under a particular call is 80% of accepted costs. The total 3-year project budget is EUR 300 000. Indirect taxes, which are accepted but not eligible costs, account for 5% of the total budget - EUR 15 000 - so total eligible costs are EUR 285 000. The EU is contributing EUR 240 000 to the project, which is 80% of total accepted costs but 84.21% of total eligible costs. If for instance, the total second year budget estimate is EUR 112 000, including EUR 4480 (4%) indirect taxes, which are not an eligible cost. The EU will pay 84.21% of eligible costs i.e.

EUR 112 000 - EUR 4 480 = EUR 107 520 x 84.21% = EUR 90 543.

The Organisation has 60 Days following the end of the reporting period to present an interim report (narrative and financial, covering the elapsed reporting period).

If at the end of the reporting period eligible costs of the Organisation related to its staff or otherwise subject to a legal commitment towards a third party are less than 70% of the last payment (and 100% of the preceding payments), the further pre-financing payment may not be paid in full, but may be partially paid. If the Organisation presents a payment request, the payment is reduced by the amount corresponding to the difference between the 70% of the immediately preceding pre-financing payment (and 100% of the preceding payments) and the part of the eligible costs incurred which is financed by the Contracting Authority.

For the purposes of the application of the 70% rule, the applicable currency is the Currency of the Agreement.

Alternatively, the Organisation may present a summary of the progress of the Action, and present a payment request as soon as the 70% threshold is reached, even in case the initially agreed reporting period (e.g. 12 months) has not yet materialised. The narrative and financial report have then to cover the elapsed period since the last payment request. The following reporting period starts anew from the end date of the period covered by the payment request. In the case of Multi-Partner Agreement, please note that the Commission will make a single/aggregated payment of each instalment to the Organisation, who is in turn responsible for the distribution of the funds among the Partners. The 70% threshold is therefore to be read in an aggregated way, meaning, covering the legal commitments of all Partners.

Example: In an Action fully financed by the EU, An Organisation has received an initial instalment of EUR 96 000 on the basis of a forecast budget of EUR 96 000 and an

agreed pre-financing rate of 100%. The Organisation submits a first interim report stating that EUR 60 000 of this (i.e. the 62.5% of EUR 96 000) has been paid by the Organisation to its staff or otherwise subject to a legal commitment towards a third party.

The forecast budget for the following period for the second year of the project is EUR 87 000. However, the difference between the 70% threshold (EUR 96 000 x 70% = EUR 67 200) and the amount paid by the Organisation to its staff or otherwise subject to a legal commitment towards a third party (EUR 60 000) is EUR 7 200. So the second instalment will be reduced by EUR 7 200 and it will amount to EUR 79 800.

In case the Organisation submits a report (narrative and financial) without requesting any further payment (for example when initial pre-financing was very high while implementation was very slow and significant under-spending occurs), such a report is in principle treated as a summary of the progress of the Action. In this case, it there is no need to submit a payment request.

As a general rule, when the remaining period to the end of the Action is less than 18 months, the forecast budget (and the pre-financing payment) will cover that remaining period; unless the art. 4.2 of the Special Conditions provides for different arrangements. The next report will be the final report covering the whole Action. Please note that when the total implementation period of the Action is of 18 months or less, the first pre-financing payment and, therefore, the corresponding forecast budget may cover such total implementation period.

The balance of the final amount of the EU contribution will only be payable after the end of Implementation Period, when the final report together with a request for payment has been approved by the Contracting Authority.

If total final approved costs are less than originally foreseen and/or the contingency reserve has not been used, the balance to be paid will be less than the amount stated in *Article 4* of the Special Conditions, as the EU contribution is limited to the percentage of eligible or accepted costs, as stated in *Article 3* of the Special Conditions (see also *Article 18* and *20* of the General Conditions).

For the purposes of Contribution Agreements following a call for proposals, the maximum EU contribution and percentage of eligible or accepted costs financed by the Contracting Authority may never be increased (see supplement to *Article 10.4* of Annex IIb)..

Concerning the final payment and if the balance equals to zero, it is understood that, at the end of the Implementation Period, the Organisation should always confirm that no more payment is requested (this can be done, for example, through a cover letter accompanying the submission of the final reports). This would typically happen in cases of EU 100% pre-financing.

In the exceptional event that the Organisation does not request any further pre-financing, the Organisation is still obliged to submit the reports in accordance with *Article 3* of the General Conditions.

Example for priority of consumption and notional approach in further pre-financing:

An Organisation signs a Contribution Agreement (indirect management) with the European Commission:

- in USD
- with Joint co-financing
- for 2 years duration
- for USD 1 000 000 (xxx amount in EUR) when the total cost of the Action is USD 2 000 000 (additional USD 1 000 000 paid by the Organisation or other contributor)
- forecast budget for the 1st year of the Action: USD 1 100 000 (and therefore remaining USD 900 000 for the 2nd year of the Action)
- agreed pre-financing rate: 90%

Contract drafting level – tranches:

- The Budget in Joint co-financing shall represent the Action (USD 2 000 000), not only the EU contribution. Whenever a forecast budget is presented, for calculation purposes only, the EU contribution shall be taken pro-rata ($\text{USD } 1\,000\,000 / 2\,000\,000 = 50\%$)
- Calculation of 1st pre-financing: $\text{USD } 1\,100\,000 * 50\% * 90\% = \text{USD } 495\,000$.
- The calculation for the 2nd pre-financing is: $\text{USD } 900\,000 * 50\% * 90\% = \text{USD } 405\,000$.
- The balance payment is the remaining 10%, therefore USD 100 000.

Payment level – pre-financing instalments:

- By default, the 1st pre-financing takes place upon signature of the contract.
- For the 2nd pre-financing to be paid fully, the expenditure (legal commitments + amounts paid for staff costs) in the report shall reach the 70% of the 1st pre-financing, therefore USD 346 500.

Case 1: Expenditure = USD 400 000.

As the budget concern the Action, also the reports concern the total Action. Therefore, the USD 400 000 cover the amount spent from the contributions paid by both the Commission and other donors. That does not mean that the USD 400 000 correspond 50% to EU contribution and 50% to the other contribution. Due to the priority of consumption it is considered that the USD 400 000 of total expenditure were taken from the 1st pre-financing paid by EU. Therefore, the 70% was reached and the payment of the 2nd pre-financing can take place in full.

Case 2: Expenditure = USD 300 000.

The payment needs to be reduced by the amount corresponding to the difference between:

- the 70% of the immediately pre-financing payment (USD 346 500) and
- the part of the previous pre-financing payments which has been paid by the Organisation to its staff or has been subject to a legal commitment with a third party (USD 300 000).

The difference is USD 46 500, therefore the 2nd pre-financing of USD 405 000 would be USD 358 500.

Payment level: Balance payment:

Even if the expenditure reaches the maximum (USD 2 000 000), the payment will cover the remaining amount to reach the maximum EU Contribution in EUR as stipulated in *Article 3.1* of the Special Conditions.

In the cases of Multi-Partner Agreements, requests for further pre-financing payment(s) for the following reporting period may be submitted by the Organisation before the end of the reporting period, when the legal commitments made by the Organisation or its Partners or amounts paid by the Organisation or its Partners to their staff reach an aggregate level of 70% of the immediately preceding instalment and 100% of the previous payment(s), if any.

17.2	Payment requests shall be accompanied by narrative and financial reports presented in accordance with Article 3. The requests for pre-financing payments and the request for the balance shall be drafted in the Currency of the Agreement as specified in the Special Conditions. Except for the first pre-financing instalment, the payments shall be made upon approval of the payment request accompanied by a progress or final report. The final amount shall be established in line with Article 18. If the balance is negative, the payment of the balance takes the form of recovery.	
17.3	Approval of the requests for payment and of the accompanying reports shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information contained therein.	
17.4	The Contracting Authority shall make payments in the Currency of the Agreement as specified in the Special Conditions to the bank account referred to in the financial identification form in Annex IV.	
17.5	Payment arrangements for financing not linked to costs in accordance with Article 19 shall be set out in Article 4 of the Special Conditions and Annex I.	
17.6	If no payment has been made by the Contracting Authority within two (2) years of the entry into force of the Agreement, the Agreement shall be terminated.	Please note that the first pre-financing payment, generally disbursed upon signature of the Agreement, is considered as a 'payment' for the purpose of this Article. In case no payment is made within 2 years of the entry into force, the contract shall be terminated and the budgetary commitment corresponding to the amount of the terminated contract shall be decommitted (Article 114 (6) of the EU Financial Regulation.)

Late payment interest

17.7	<p>In case of late payment of the amounts stated in Article 4 of the Special Conditions the following conditions apply:</p> <p>a) upon expiry of the time limits for payments specified in Article 17.1, if the Organisation is not a Member State Organisation, it shall receive interest on late payment based on the rate applied by the European Central Bank for its main refinancing operations in Euros (Reference Rate), increased by three and a half percentage points. The Reference Rate shall be the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the Official Journal of the EU;</p> <p>b) the suspension of the time limit for payment by the Contracting Authority in accordance with Article 11 or 12 shall not be considered as late payment;</p>	As per Article 116 (4) of the EU Financial Regulation, Member States are not entitled to late payment interest. Member State Organisations are not entitled to late payment interest as they fall within the definition of Member State.
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- c) interest on late payment shall cover the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article 17.1. Any partial payment shall first cover the interest;
 - d) by way of exception to point (c), when the interest calculated in accordance with this provision is lower than or equal to EUR 200, the Contracting Authority shall pay such interest to the Organisation only upon request from the Organisation submitted within two (2) months of it receiving late payment;
 - e) by way of exception to point (c), when the Contracting Authority is not the European Commission, and the European Commission does not make the payments, the Organisation shall be entitled to late payment interest upon its request submitted within two (2) months of it receiving late payment.

Article 18 – Final amount of the EU Contribution

<p>18.1</p>	<p>The Contracting Authority shall determine the final amount of the EU Contribution when approving the Organisation’s final report. The Contracting Authority shall then determine the balance:</p> <ul style="list-style-type: none">a) to be paid to the Organisation in accordance with Article 17 where the final amount of the EU Contribution is higher than the total amount already paid to the Organisation; orb) to be recovered from the Organisation in accordance with Article 14 where the final amount of the EU Contribution is lower than the total amount already paid to the Organisation.	<p>For the purpose of calculating the EU Contribution, the final amount will be obtained by adding the costs reported in each progress report.</p> <p>If payments are made in the accounting currency of the Organisation – which will be, for this case, the “Currency of the Agreement” (as indicated in <i>Article 3.1</i> of the Special Conditions) – the final payment will in any case be limited to the maximum EU Contribution in EUR as stipulated in <i>Article 3.1</i> of the Special Conditions.</p> <p>After the end of the Implementation Period, the Organisation shall submit the final narrative and financial report in the Currency of the Agreement. The final financial report shall present eligible costs in the Currency of the Agreement.</p> <p>Where the final eligible costs attributable to the EU Contribution exceed the sum of all pre-financing instalments provided, the Organisation is entitled to request a final payment (“balance”). The amount of the balance shall be specified in the Currency of the Agreement and shall represent the amount needed to balance the “income” (i.e. all pre-financing payments received from the EU) and eligible expenditure attributable to the EU (up to the amount of EU contribution denominated in the <i>Article 3.1</i> of the Special Conditions).</p> <p>When the “balance” is negative (for instance, there is a surplus of amounts already paid over the EU final contribution, the Organisation will specify the amount of surplus balance in its accounting currency in its final report. In the pre-information</p>
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letter the amount to be recovered will be indicated in the currency of the Organisation.

18.2 The final amount shall be the lower of the following amounts:
a) the maximum EU Contribution referred to in Article 3.1 of the Special Conditions in terms of absolute value;
b) the amount obtained after reduction of the EU Contribution in accordance with Article 18.3.

18.3 Where the Action (i) is not implemented, (ii) is not implemented in line with the Agreement or (iii) is implemented partially or late, the Contracting Authority may, after allowing the Organisation to submit its observations, reduce the EU Contribution in proportion to the seriousness of the above mentioned situations. If there is a disagreement between the Organisation and the Contracting Authority on the reduction, the Organisation may refer the matter to the responsible director in the European Commission.

Article 19 – Financing not linked to costs

19.1 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 financing not linked to costs is not subject to Article 16. The relevant Results and the means to measure their achievement shall be clearly described in Annex I.

Performance-based financing corresponds to financing not linked to costs (FNLC), as form of Union contribution foreseen by article 125.1 of the Financial Regulation. FNLC is an option in addition to the “traditional” reimbursement based on eligible costs actually incurred and simplified cost options. FNLC/Performance-based financing may also be used only for a part of the Action.

The use of performance-based financing has to be considered in the light of the specific Action. It should only be used in agreement with the Organisation and not be imposed.

For the avoidance of doubt, pre-financing is also possible in the context of performance-based financing.

19.2 The amount to be paid per achieved Result shall be set out in Annex III.

19.3 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.

19.4

Articles 3.7 f), 3.8 b), 3.8 f), 10.3 and 10.5 do not apply to the part of the Action supported by way financing not linked to costs.

Article 20 – Contracting and Early Detection and Exclusion System

Contracting

20.1

Unless otherwise provided for in the Special Conditions, the origin of the goods and the nationality of the organisations, companies and experts selected for carrying out activities in the Action shall be determined in accordance with the Organisation's relevant rules. However, and in any event, goods, organisations, companies and experts eligible under the applicable regulatory provisions of the European Union shall be eligible. Without prejudice to the foregoing or to the Organisation's assessed Regulations and Rules, the Organisation shall promote the use of local contractors when implementing the Action.

With respect to this Article, it is understood that the Organisation may apply its own rules of origin and nationality, provided that such rules are not more restrictive than the applicable Commission rules of origin (as referred to in the corresponding Basic Act).

This provision allows the Organisation to apply its rules of participation and origin provided that the entities eligible under the Regulation financing the Action (i.e. NDICI-GE, EINS, EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR and predecessors/successors) can also participate.

Therefore, this provision does not allow the application of narrower rules of participation and origin than those of the applicable Regulation nor it allows any type of domestic preference or national content that is not foreseen by the corresponding Basic Act.

Early Detection and Exclusion System

20.2

The Organisation shall inform the European Commission if, in relation to the implementation of the Action, it has detected a situation of exclusion pursuant to its rules and procedures referred to in Article 2.2 d) and any ad hoc measure stipulated in the Special Conditions or if it has detected a fraud and/or an irregularity pursuant to Article 2.6. This information may be used by the European Commission for the purpose of the Early Detection and Exclusion System. The Organisation shall inform the European Commission when it becomes aware that transmitted information needs to be rectified updated or removed. The Organisation shall ensure that the entity concerned is informed that its data was transmitted to the European Commission and

The Organisation shall report to the Commission if it has detected a situation of exclusion:

- a) pursuant to its own positively assessed Regulations and Rules; or
 - b) c) if it has detected a fraud and irregularity pursuant to *Article 2.6* of the General Conditions. See the comments to *Article 2.6* of the General Conditions for a definition of fraud and irregularity.
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may be included in the Early Detection and Exclusion System and be published on the website of the European Commission. These requirements cease at the end of the Implementation Period.

20.3 Without prejudice to the power of the European Commission to exclude a person or an entity from future procurement contracts and grants financed by the EU and/or to impose financial penalties according to the EU Financial Regulation, the Organisation may impose sanctions on third parties according to its own Regulations and Rules ensuring, where applicable, the right of defence of the third party.

“Third parties” at the end of the provision refers to the person or entity which are not signatory parties of the Contribution Agreement.

20.4 The Organisation may take into account, as appropriate and on its own responsibility, the information contained in the Early Detection and Exclusion System, when implementing the EU Contribution. Access to that information can be provided through the authorised persons or via consultation with the European Commission as referred in Article 5.6 of the Special Conditions. .

Annex II a. Provisions applicable only to Multi-Partner Contribution Agreements

This annex is only applicable where part of the Action is implemented by Partners (pillar assessed or not) and/or affiliated entities.

Article 1 – Parties to Multi-Partner Contribution Agreements

Where the Organisation implements the Action in association with Partners, the Partners become Parties to the Agreement together with the Organisation. The provisions contained in Annex II apply to Partners *mutatis mutandis*, subject to the provisions of this Annex, and Annex IIb as regards non-pillar-assessed Partners⁴.

Both the Organisation and each Partner have a contractual relationship with the Contracting Authority, holding the corresponding rights and bearing the corresponding obligations described in the General and Special Conditions. The specific regime for Multi-Partner Agreements only entails adjustments to the provisions applicable to the Contribution Agreement, by setting out specific obligations for Partners (see *Article 3*), for the Organisation (see *Article 2*, notably regarding reporting and payments) and for both (*Articles 4-7*).

Annex II.a is also relevant (together with the relevant provisions of Annex II.b) where part of the Action is implemented by non-pillar-assessed Partners or affiliated entities.

The notion of 'Partners' (for a definition of this term, see *Article 1* of the General Conditions) only refers to organisations that implement part of the Action on the same level as the Organisation, i.e. it does not refer to other implementing partners that are involved in the implementation of the Action but receive funds through a Grant or a Procurement Contract from the Organisation.

It is underlined that when a pillar-assessed organisation participates to the Action, it should always do so as a Partner and not, for example, as a Grant Beneficiary.

Article 2 – Additional Obligations of the Organisation

⁴ It is reminded that non-pillar-assessed Partners are only possible in the context of Contribution Agreements awarded, by the Commission or by a Partner Country, further to calls for proposals or as a direct award of a grant, without a call for proposals. Such scenario only applies to EU external actions.

In addition to the obligations set out in Annex II the Organisation shall:

- a) perform the activities as described and assigned to it in Annex I;
- b) ensure coordination with all Partners in the implementation of the Action;
- c) be the intermediary for all communications between the Partners and the Contracting Authority;
- d) be responsible for supplying without delay all documents and information to the Contracting Authority which may be required under this Agreement, in particular in relation to the narrative reports, the requests for payment and the relevant management declarations and audit opinions - where applicable - from all Partners. Where information from the Partners is required, the Organisation shall be responsible for obtaining and consolidating this information before passing it on to the Contracting Authority. Any information given, as well as any request made by the Organisation to the Contracting Authority, shall be deemed to have been given in agreement with all Partners;
- e) inform the Contracting Authority of any event likely to affect or delay the implementation of the Action;
- f) inform the Contracting Authority as soon as the information is available, of any change in the legal, financial, technical, organisational or ownership situation of any of the Partners, as well as of any change in the name, address or legal representative of any of the Partners;
- g) be responsible in the event of monitoring and evaluations, as described in Article 9 of Annex II, for collecting and providing all the necessary documents;
- h) establish the payment requests in accordance with the Agreement;
- i) be the sole recipient, on behalf of all the Partners, of the payments of the Contracting Authority. The Organisation shall ensure that the appropriate payments are then made to the Partners without unjustified delay;
- j) where relevant, repay funds to the Contracting Authority in line with Article 14 of Annex II without prejudice to Article 6;
- k) not delegate any, or part of, the tasks listed above to the Partners or other entities.

The obligation described in *Article 2 a)* of Annex II.a corresponds to the activities of the Organisation related to the implementation of the Action carried out by the Organisation, according to the distribution of tasks established in the "Description of the Action" (Annex I).

The obligations described in *Article 2 b) – 2k)* of Annex II.a refer to the coordination tasks performed by the Organisation as the coordination entity.

The costs related to the Organisation's coordination tasks, directly linked with the obligations set out in this Article, are to be considered as direct eligible costs, subject to the conditions of *Article 16.1* of the General Conditions. As these costs are not considered relevant in the context of grants, this applies only where the Commission signs a Multi-Partner Contribution Agreement with Organisations in indirect management (same approach as the previous Co-Delegation Agreement).

Article 3 - Obligations of the Partners

The Partners shall:

- a) perform the activities as assigned to each Partner in Annex I, taking all necessary and reasonable measures to ensure that the Action is performed in accordance with the description of the Action in Annex I and the terms and conditions of this Agreement;

To comply with the obligations set out in this Article, it is expected that each Partner is entitled to a flat-rate remuneration which shall not exceed 7% of the eligible direct costs of the respective component managed by it, following the regime set out in *Article 16.3* of the General Conditions.

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- b) ensure that the Organisation has or obtains the data needed to draw up the reports, financial statements and other information or documents required by this Agreement and the annexes thereto, including any information needed in the event of monitoring or evaluations, as described in Article 9 of Annex II, as well as the relevant management declarations and audit or control opinion referred to in Articles 3.10 to 3.12 of Annex II (this does not apply to those documents and Partners that fall within an arrangement with the European Commission to provide either of them globally, on an annual basis);
 - c) ensure that all information to be provided and requests made to the Contracting Authority are sent via the Organisation;
 - d) agree with the Organisation upon appropriate internal arrangements for the internal coordination and representation of the Partners vis-a-vis the Contracting Authority for any matter concerning this Agreement, consistent with the provisions of this Agreement and in compliance with the applicable legislation(s);
 - e) be responsible - in the event of audits, checks and investigations, as described in Article 15 of Annex II - for full cooperation in the protection of the Union's financial interests and, in particular, for providing all the necessary access, information and documents in accordance with Article 15.5 of Annex II, without prejudice to Article 5.

The total remuneration for the Contribution Agreement shall not exceed 7% of the total eligible direct costs to be reimbursed by the Contracting Authority. Please note *Article 3.2* of the Special Conditions that enables the setting of lower remuneration rates commensurate with the conditions for implementing the Action and the different rules that apply in the context of blending operations.

In order to comply with its obligations on reporting as coordinator, as stated in subparagraph b), the Organisation should timely receive from each Partner the necessary information, preferably already in the form of narrative and financial reports. That is to say, the role of the Organisation should be mainly of compilation of the different sections of the report.

Article 4 – Termination and suspension

4.1

Article 12 of Annex II is amended as follows:

- a) in the first paragraph of Article 12.1 of Annex II, “may terminate” shall be replaced by “may terminate or partially terminate” and “the Organisation” shall be replaced by “the Organisation or a Partner”. In addition to Article 12.1 and in respect thereof, the Contracting Authority shall discuss prior to termination the possible reallocation of the tasks and responsibilities of the Partner or of the Organisation whose participation is terminated, in case of partial termination, among the remaining Partners and/or the Organisation, or on its possible replacement by a third party. If the Contracting Authority agrees, the Agreement shall be amended accordingly in accordance with Article 10. If the Contracting Authority does not agree, either Party may terminate the Agreement in accordance with Article 12.3.
- b) In duly justified cases, the Organisation may propose to terminate its participation or the participation of a Partner to this Agreement. For this purpose, the Organisation shall communicate to the Contracting Authority the reasons for the proposed termination and the date on which it should take effect, as well as a proposal on the reallocation of the tasks and responsibilities of the Partner or of the Organisation whose participation is terminated, or on its possible replacement. The proposal shall

be sent in due course before the termination is due to take effect. If the Contracting Authority agrees, the Agreement shall be amended accordingly in accordance with Article 10. If the Contracting Authority does not agree, either Party may terminate the Agreement in accordance with Article 12.3.

4.2

In the case of termination of the participation of a Partner or of the Organisation pursuant to Article 4.1 a) or b), the final payment regarding the activities allocated to the Partner concerned or to the Organisation shall be included in the next payment request following the amendment of the Agreement.

Article 5 – Financial framework partnership agreements and special agreements

Where the Organisation and one or more pillar-assessed Partners have each concluded a financial framework partnership agreement with the European Commission, the financial framework partnership agreement of the Organisation and each Partner shall apply for the purpose of this Agreement, except in relation to obligations on reporting and payments, to which only the Organisation's financial framework partnership agreement shall apply.

Article 6 – Financial responsibility

The Organisation and each pillar-assessed Partner shall be financially responsible solely for the part of the Action to be implemented by it (including by its Contractors and Grant Beneficiaries), as set out in Annex I, or for the activities assigned to it during the implementation of the Action in case these are not defined in Annex I. The Contracting Authority shall recover any unduly paid or incorrectly used funds directly from the Organisation, unless the Organisation can demonstrate that amounts to be recovered under this Agreement only relate to activities that have or should have been implemented by a pillar-assessed Partner pursuant to Annex I. In such case, the Contracting Authority will recover directly from the concerned defaulting pillar-assessed Partner.

This Article implies that each pillar assessed Partner is financially responsible for the part of the Action allocated to the relevant Partner. However, if the Organisation is not able to demonstrate to the Contracting Authority that funds unduly paid or incorrectly used relate to the part of the Action allocated to the Partner, the Organisation remains financially responsible for the respective amount and the Contracting Authority will recover directly from the Organisation.

However, the Organisation shall remain financially responsible for any non-pillar assessed Partners and their affiliated entities (if any).

Article 7 – Dispute settlement

Where either the Organisation or at least one of the pillar-assessed Partners is an International Organisation, Article 13.4.b of Annex II shall apply to the entire Agreement. In case a dispute does only concern one or some Partners or only the Organisation, the dispute settlement mechanism foreseen in Article 13.4.b will apply between the Contracting Authority and the relevant pillar-assessed Partner or the Organisation only.

Annex II b. Provisions only applicable to a Contribution Agreement resulting from the award of a grant with or without a call for proposals for EU External Action

This annex is only applicable to calls for proposals based on the PRAG (Procurement and Grants for European Union external Actions – A Practical Guide).

When the grant is awarded to a pillar-assessed organisation as lead applicant/coordinator, a Contribution Agreement will be signed. In these cases, Annex II.b shall be included as well and the management mode will remain direct management or indirect management with the Partner Country (where the Partner Country is the Contracting Authority). This Annex would also apply in the very exceptional situation that the Authorising Officer of the Commission awards a grant directly to a pillar assessed organisations.

The PRAG guidelines for applicants include the following paragraph:

“Where the coordinator is an organisation whose pillars have been positively assessed, it will sign a contribution agreement based on the contribution agreement template. In this case, references to provisions of the standard grant contract and its annexes shall not apply. References in these guidelines to the grant contract shall be understood as references to the relevant provisions of the contribution agreement.”

Accordingly, in the cases where a Contribution Agreement would be signed, the eligibility of costs is governed by the provisions of the Contribution Agreement and not the PRAG standard grant contract.

In line with the above, the provisions on expenditure verifications do not apply. In this context, it has to be noted that the coordinator takes the full financial responsibility for all non-assessed Partners. As for other Contribution Agreements, there may, of course, be audits (including on the parts implemented by Partners).

Please note the following important points:

- a) If the pillar-assessed organisation is not the lead applicant but only a co-applicant, a standard grant contract will be signed (including, when the organisation is an International Organisation, relevant

parts of PRAG annex E3h11 on derogations for International Organisations).

- b) For calls for proposals published using a pre-2018 version of the PRAG: If the lead applicant is pillar assessed, a pillar assessed grant (“PAGoDA grant”) will be signed in accordance with the provisions of the guidelines for applicants.

If Partners and/or affiliated entitled participate in the implementation of the Action, Annex II.a has to be included as well.

Please note that, in accordance with the PRAG, pillar-assessed organisations do not have to provide a declaration on honour.

Footnote 1

By either a partner country or European Commission. Even if non-assessed Partners or affiliated entities participate in the implementation of the Action. EU External Action refers to actions financed under NDICI-GE, EINS, EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR, their predecessors and successor(s). All other actions - except CFSP and humanitarian aid - are Internal Policies..

As a rule, partner countries implementing EU funds through indirect management use PRAG rules and documents for the award of grants. This includes the option to directly award contracts in the limited cases set out in the PRAG. In order to ensure a coherent approach, the contract type to be signed in these cases is also a Contribution Agreement.

To be added to the Special Conditions

1.3

In Article 1.3bis SC, in case of Multi-Partner Contribution Agreements with non-pillar-assessed Partners, include:

[<names of non-pillar-assessed entity> [is a/are] non-pillar assessed Partner[s] for the purposes of Annexes II.a and II.b.]

3.1

In Article 3.1 SC after the second sentence, indicate the percentage of total eligible costs financed by the EU Contribution if the guidelines of the call for proposals provide for the application of a percentage:

[The EU Contribution is further limited to <enter applicable percentage> of the total eligible costs of the Action.]

In Article 3.1, at the end, insert the following sentence:

This option (i.e. to limit the EU Contribution also to a percentage of the total eligible costs) only applies in the context of calls for proposals.

If the guidelines for applicants provide for the double-ceiling (i.e. the maximum EU Contribution is expressed both as a maximum amount and as a maximum percentage of eligible costs) this double-ceiling has to be included also in Contribution Agreements resulting from the respective call.

[The final amount shall not exceed the amount obtained by applying the percentage laid down in the first subparagraph to the total eligible costs of the Action approved by the Contracting Authority.]

Art. 7.1.x

In Article 7 SC, if the Organisation implements the Action together with Affiliated Entities add (and repeat as many times as Affiliated Entities):

Details on affiliated entities are included in section 6.1.2 of the PRAG.

[7.1.x For the purpose of this Agreement, the following entities are considered Affiliated Entities:

Details on accepted costs are included in section 6.3.9 of the PRAG and the grants implementation manual.

<name of the legal entity>, affiliated to <name of the Organisation or Partner>;

In Article 7 SC, for accepted costs system, insert:

7.1.x The following non eligible costs may be considered part of the total accepted costs of the Action for the purpose of co-financing, as follows:
<clarify the conditions and specificities of the relevant costs in accordance with the relevant guidelines for applicants> .

[The total accepted costs of the Action are estimated at <currency of the Agreement> <enter total of estimated eligible costs plus non-eligible costs>, as set out in Annex III. The Contracting Authority's contribution set out in Article 3.1 is further limited to <enter applicable percentage> of the total accepted costs.]

In Article 7 SC, in case the guidelines for the call for proposals provide for the application of a percentage:

[7.1.x By way of derogation from Article 3.8 f), if the EU Contribution is expressed both as nominal amount and as a percentage of total eligible costs of the Action, the full amount of the costs related to the Action needs to satisfy the eligibility conditions of Article 16 of Annex II.]

The following provisions shall supplement Annex II

8.3 Article 8.3 of Annex II shall be supplemented as follows: “As an alternative, the relevant equipment, vehicles and remaining major supplies may also be transferred to local non-pillar-assessed Partners.”

10.4 Article 10.4 of Annex II shall be supplemented as follows: “Amendments shall not have the purpose or the effect of making such changes to the Agreement as would call into question the award decision or, where applicable, be contrary to the equal treatment of applicants.”

16.1 Where the Contribution Agreement results from a call for proposals, Article 16.1 of Annex II shall be supplemented as follows: “Costs related to Grants are only eligible if the Grants are provided in accordance with the requirements for financial support to third parties as set out in Annex I and the relevant guidelines for applicants. Costs related to Procurement Contracts shall be eligible provided that the non-pillar-assessed Partner awarded the Procurement Contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price, and conflicts of interest are avoided.”

In line with the EU Financial Regulation, guidelines for applicants include a number of requirements that need to be addressed by Grant Beneficiaries when they intend to provide financial support to third parties (see also *Article 10.5* and following of the PRAG standard grant contract).

These requirements also have to be respected by the Organisation if it signs a Contribution Agreement as a result of a call for proposals and intends to provide a Grant (in the sense of the Contribution Agreement) to a third party.

These requirements for financial support do not apply if the Contribution Agreement is the result of a direct award by a Contracting Authority from a Partner Country.

16.5 Where the Contribution Agreement results from a call for proposals, Article 16.5 of Annex II shall be supplemented as follows: “Currency exchange losses”...

18.2 Where the EU Contribution is also expressed as a maximum percentage in the Special Conditions, Article 18.2 of Annex II shall be supplemented as follows: c) the amount obtained by applying the percentage set out in Article 3.1 of the Special Conditions to the total eligible costs of the Action approved by the Contracting Authority.

The following provision shall amend Annex II

20.1 If the Action is not a Multi-Donor Action and non-pillar-assessed Partners participate, Article 20.1 of Annex II shall be supplemented as follows:

Notwithstanding the foregoing, for Procurement Contracts to be signed by non-pillar-assessed Partners, the origin of the goods and the nationality of the organisations, companies and experts selected for carrying out activities in the Action shall be determined in accordance with the applicable regulatory provisions of the European Union.

The following provisions shall supplement Annex II.a

- 1** Article 1 of Annex II.a shall be supplemented as follows: except for Articles 2.2 to 2.4 of Annex II. Non-pillar-assessed Partners shall comply with second subparagraph of Article 2.7 of Annex II. Where part of the Action is implemented by affiliated entities the rules for Partners apply *mutatis mutandis*, except for Articles 2.2 to 2.4 of Annex II. Affiliated entities shall comply with second subparagraph of Article 2.7 of Annex II. Affiliated entities are not Party to the Agreement but shall be mentioned in Article 7 of the Special Conditions.

Affiliated entities have to comply with the same rules as Partners (see *Articles 1 and 3* of Annex II.a)
 - 2** Article 2 of Annex II.a shall be supplemented as follows: The management declaration and, where applicable, audit opinion of the Organisation shall encompass the activities implemented by non-pillar-assessed Partners and any affiliated entities.
 - 6** Article 6 of Annex II.a shall be supplemented as follows: The Organisation is financially responsible for the parts of the Action to be implemented by non-pillar-assessed Partners and any affiliated entities.

This is the same concept as in previous PA Grant Agreements.
-

Special Conditions

Note that this “standard” Contribution Agreement template will not be used if the Commission provides funding for a financial instrument. In such case, the Contribution Agreement for Financial Instruments template has to be used.

Article 1 - Purpose

1.1 The purpose of this Agreement is to provide a financial contribution to finance the implementation of the action <fill in the title of the programme or project> as described in Annex I (the “Action”). This Agreement establishes the rules for the implementation and for the payment of the EU Contribution, and defines the relations between the Organisation and the Contracting Authority.

1.2 **Select one option:**
[The Action is fully financed by the EU Contribution.]
or
[The Action is a Multi-Donor Action and the EU Contribution [is] / [is not] earmarked.]

An Action is a Multi-Donor Action if it is not only financed by the EU Contribution but also by other donors or the Organisation itself.

The EU Contribution is earmarked if it is indicated in the Budget (Annex III) that the EU Contribution may only be used for specific activities or budget items. Please note that the fact that certain budget items are excluded from the EU contribution (for example, in case such items are not eligible for EU financing) does not necessarily lead to earmarking as the budget items covered by the EU contribution may still be jointly co-financed by other donors (see also below).

This includes cases of parallel co-financing. In the case of parallel co-financing, an Action is split into a number of clearly identifiable components which are each financed by the different donors providing co-financing in such a way that the end-use of the financing can always be identified.

The EU Contribution is not earmarked in the case of joint co-financing, i.e. when funds are pooled.

There may be Actions where the EU Contribution is earmarked but at the same time part of the Action is jointly co-financed. Example: the Action comprises three components. The EU Contribution is earmarked for the first component, i.e. it does

not finance component 2 and 3. However, the first component is jointly co-financed by other donors. Therefore, the entire first component will be subject to the detailed financial reporting for joint co-financing.

If it is clear from the beginning that some costs are not eligible, this should be indicated in the budget of the Action.

If – after signature of the Agreement – it turns out the Action is actually a Multi-Donor Action, a respective amendment can be processed without the need for an addendum of the underlying financing decision or financing agreement. However, in some cases, an amendment to the latter might be desirable for consistency purposes or in order to formalise, where applicable, the extension of a contracting deadline.

1.3

The Organisation declares that no substantial changes, which have not already been communicated to the Commission, affect the rules and procedures which have been [subject the Ex-ante Pillar-Assessment] / [assessed by the European Commission for the purpose of granting an exemption to the obligation to undergo the Ex-ante Pillar Assessment].

As provided for in Article 2.2 of Annex II,

in case Grants and/or Procurement will be awarded by the Organisation during the implementation of the Action, insert the following and select options accordingly:

[In the performance of the activities, the Organisation shall:

- [Apply its own rules and procedures for the award and management of Procurement Contracts which have been assessed in the Ex-ante Pillar Assessment. If applicable, insert: [, complemented with the ad-hoc measures laid down in Article 7].] [,and]
- [Apply its own rules and procedures for the award and management of Grants, which have been assessed in the Ex-ante Pillar Assessment. If applicable insert: [, complemented with the ad-hoc measures laid down in Article 7].]

By signing the Agreement the Organisation declares that the initial Pillar assessment or assessed for granting an exemption for the Pillar Assessment is still valid, and was not affected by any substantial change that could question its conformity with positive conclusion.

In case the Grant award or procurement activities are foreseen in the Action, the fact that the Organisation is going to use its own procurement and grant award rules (complemented or not by the supervisory measures, referred to as ad hoc measures) ha to be confirmed in the Agreement.

Ad hoc measures are only to be inserted in *Article 7* of the Special Conditions if the pillar assessment report includes recommendations which are then explicitly referred to in the note approving the content of the pillar assessment.

The Organisation will use its own procurement or grant award procedures being positively assessed. However, the Organisation still has to comply with *Article 20* of the General Conditions, which contains substantive requirements.

1.3bis

In case of Multi-Partner Contribution Agreements, include:

This Agreement is a Multi-Partner Contribution Agreement.

<names of pillar-assessed entity or entity that has been exempted from an Ex ante Pillar Assessment> [is a/are] pillar-assessed Partner[s] for the purposes of this Agreement¹

As provided for in Article 2.2 of Annex II, in case Grants and/or Procurement Contracts will be awarded by the concerned partner during the implementation of the Action, insert the following and select options accordingly (repeat as many times as pillar-assessed Partners):

[In the performance of the activities, < name of pillar-assessed Partner > shall:

- [Apply its own rules and procedures for the award and management of Procurement Contracts which have been assessed in the Ex-ante Pillar Assessment **if applicable, insert:**], complemented with the ad-hoc measures laid down in Article 7]], and]
- [Apply its own rules and procedures for the award and management of Grants, which have been assessed in the Ex-ante Pillar Assessment **if applicable, insert:**], complemented with the ad-hoc measures laid down in Article 7]].

The pillar-assessed Partner[s] declare[s] that no substantial changes, which have not already been communicated to the Commission, affect the rules and procedures which have been [subject to the Ex-ante Pillar-Assessment] [and/or] [assessed by the European Commission for the purpose of granting an exemption to the obligation to undergo the Ex-ante Pillar Assessment]

If non-assessed Partners participate in the Action, remember to add the relevant language as included in Annex II.b.

Please refer to previous Article for further details as regards the Options and its correct understanding.

1.4

The Action is financed under <indicate the relevant Instrument>.

1.5

Select one:

Difference is made between 2 types of Management declarations: A management declaration per project, which is to be submitted with each report, and global

¹ In case of partners that have been exempted from a pillar assessment For the avoidance of doubt, reference to 'pillarassessed Partners' includes Partners includes those that have been exempted (totally or partially) from an Ex-Ante Pillar Assessment by the European Commission.

For International Organisations/Member State Organisations which have established an arrangement to provide annually a global management declaration covering more than one Contribution Agreement/Contribution Agreement for Financial Instruments:

[The Organisation shall provide annually a global management declaration to the European Commission headquarters.]

For International Organisations /Member State Organisations, in all other cases:

[The Organisation shall provide a management declaration in accordance with Articles 3.10 of Annex II with every progress and final report.]

For other organisations which have established an arrangement to provide annually a global management declaration and an audit opinion covering more than one Contribution Agreement/Contribution Agreement for Financial Instruments:

[The Organisation shall send annually a global management declaration and a global audit or control opinion to the European Commission headquarters.]

For other organisations/ in all other cases:

[The Organisation shall provide a management declaration in accordance with Article 3.10 with every progress and final report and an audit or control opinion in accordance with Articles 3.11 and 3.12 of Annex II one month following the management declaration.]

In case of Multi-Partner Contribution Agreements with pillar-assessed Partners, specify the applicable arrangements regarding the submission of the management declaration/audit opinion from the options above and in accordance with Article 3 b) of Annex IIa, for each of them (repeat as many times as pillar-assessed Partners):

Select one:

For International Organisations/Member State Organisations which have established an arrangement to provide annually a global management declaration covering more than one Contribution Agreement/Contribution Agreement for Financial Instruments:

management declaration covering both Contribution Agreements (including Contribution Agreement for Financial Instruments) and Delegation Agreements (based on the PAGO template), in a given financial year, which is to be published on INTPA R4 Intranet: <https://myintracomm.ec.europa.eu/dg/INTPA/finance-contracts-legal/financing-contracting-guides/companion/Pages/management-declaration-control-audit-opinion.aspx>.

A correct option is to be chosen.

[< name of pillar-assessed Partner > shall provide annually a global management declaration to the European Commission headquarters.]

For International Organisations /Member State Organisations, in all other cases:

[< name of pillar-assessed Partner > shall provide a management declaration in accordance with Articles 3.10 of Annex II with every progress and final report.]

For other organisations which have established an arrangement to provide annually a global management declaration and a global audit opinion covering more than one Contribution Agreement/Contribution Agreement for Financial Instruments:

[< name of pillar-assessed Partner > shall send annually a global management declaration and a global audit or control opinion to the European Commission headquarters.]

For other organisations, in all other cases:

[< name of pillar-assessed Partner > shall provide a management declaration in accordance with Article 3.10 with every progress and final report and an audit or control opinion in accordance with Articles 3.11 and 3.12 of Annex II one month following the management declaration.]

1.6 This Agreement is subject to the provisions of <reference to any relevant financial framework partnership agreement between the European Commission and the Organisation and, if relevant, the pillar-assessed Partner(s)>.]

Article 2 – Entry into force and implementation period

2.1 The Agreement shall enter into force on the date when the last Party signs.

2.2 The implementation period of the Agreement (the "Implementation Period") shall commence on: **select one in agreement with the Organisation** The Implementation Period starts on the date defined in the *Article 2.2* of the Special Conditions and lasts the number of months specified in *Article 2.3*. The

- [the day after the last Party signs.]
- <a later date>
- [the first day of the month following the date on which the Contracting Authority pays the first pre-financing.]
- <a date preceding the signature of the Agreement, but not preceding the Organisation's request for a contribution.² >

Implementation Period ends upon expiry of that number of months (e.g. Implementation Period starts 1 January and it is to last 11 months → it ends on 30 November) but it can be extended, in accordance with *Article 10.1* of the General Conditions.

Please ensure that the date on which the implementation period of the Agreement commences is correctly reflected in CRIS. In case the implementation period commences on the day after the last Party signs, ensure that the correct option is selected in CRIS when encoding the “starting date of activities” (i.e. “later date” or “fixed starting date”).

For the costs to be considered eligible for EU funding (i.e. charged to the EU Contribution), they must be legally incurred within the Implementation Period (see *Article 16.1* of the General Conditions, with the exceptions mentioned therein).

Between the end of the Implementation Period and before the End Date, it is still possible to amend the Agreement (in line with *Article 10* of the General Conditions). Also, the Implementation Period may be extended through an addendum even after the (initial) Implementation Period has elapsed, provided that the addendum enters into force before the End Date.

In exceptional cases, the Financing Decision could even provide for an Implementation Period that starts before the Organisation requested a contribution.

2.3 The Implementation Period of the Agreement is <indicate the number of months>.

Article 3 – Financing the Action

3.1 In case the entire Action is financed by way of performance-based financing in accordance with Article 19 of Annex II insert the following Article 3.1:
 [3.1 The Contracting Authority undertakes to provide a contribution up to a maximum of EUR <insert amount>, if the Currency of the Agreement is not EUR insert which is estimated at <insert Currency of the Agreement> <insert the

The “Currency of the Agreement” may be either EUR or the accounting currency of the Organisation. The choice of the Organisation regarding the Currency of the Agreement should be respected. Nonetheless, the maximum EU Contribution always has to be expressed in the Special Conditions in EUR as an insurmountable threshold.

² This option can be used if so stated in the Financing Decision or in other justified cases.

amount corresponding to the amount of the EU Contribution in the Currency of the Agreement at the InforEuro rate of the month of signature of this Agreement>.(the “EU Contribution”)

The final amount will be established in accordance with the relevant arrangements set out in Annex I.]

In all other cases insert the following Articles 3.1 to 3.3/3.4:

[3.1 The total cost of the Action³ is estimated at [EUR] or <insert accounting currency of the Organisation> (“Currency of the Agreement”) <insert amount>, as set out in Annex III. The Contracting Authority undertakes to provide a contribution up to a maximum of EUR <insert amount>, if the Currency of the Agreement is not EUR insert which is estimated at <insert Currency of the Agreement> <insert the amount corresponding to the amount of the EU Contribution in the Currency of the Agreement at the InforEuro rate of the month of signature of this Agreement>(the “EU Contribution”).

The final amount will be established in accordance with Articles 16 to 18 of Annex II insert in case of partial funding through financing not linked to costs [and the relevant arrangements for financing not linked to costs set out in Annex I].

In addition, the currency chosen by the Organisation must be a ‘tradable currency’ on the foreign exchange market.

For exchange rate, “date of signature” refers to the date of the signature by the first Party because then the text is fixed.

The modality of financing not linked to costs is optional. Its application is dependent on whether the Organisation agrees to it and on the nature of the Action, factoring also the embedded risks that will need to be shared.

In the context of calls for proposals, the maximum EU Contribution will also be limited to a defined percentage if so provided for in the applicable guidelines for applicants (see Annex II.b).

3.2

For Contribution Agreements outside blending facilities/platforms:

[The remuneration of the Organisation by the Contracting Authority for the the activities to be implemented by the Organisation under this Agreement shall be <enter percentage not exceeding 7%> of the final amount of eligible direct costs of the Action to be reimbursed by the Contracting Authority.]

For Contribution Agreements outside blending facilities/platforms and in case the Organisation and its partners apply differentiated remuneration rates :

[The remuneration of the Organisation by the Contracting Authority for the activities to be implemented by the Organisation under this Agreement shall be <enter percentage not exceeding 7%> of the final amount of eligible direct costs of the Action incurred by the Organisation.]

Repeat as many times as necessary:

[The remuneration of <enter name of the partner> by the Contracting Authority for the activities to be implemented by <enter name of the partner> under this

It is understood that the rate of remuneration of the Organisation/partner(s) for the implementation of the activities under the Agreement will not exceed 7%.

In case of Multi-Donor Actions, particular attention will have to be given to the rules of the Organisation/partner(s) which could provide for a lower rate for the funding of other comparable donors. In such a case, the Commission cannot be charged a higher fee than the other comparable Donors.

In case other donors allow a percentage higher than 7%, the EU will still apply the 7% threshold but that needs to be clearly explained (as a footnote) in Annex III (Budget of the Action).

In the cases of Multi-Partner Agreements, it is expected that each Partner is entitled to an autonomous remuneration percentage, in proportion with the implementation activities such Partner carries out.

³ This amount is introduced only for indicative purposes. It is an estimate and its evolution does not condition the EU Contribution.

Agreement shall be <enter percentage not exceeding 7%> of the final amount of eligible direct costs of the Action incurred by <enter name of the partner>.]

Remuneration shall be commensurate with the conditions for implementing the Action and be, where appropriate, performance based.

For Contribution Agreements within blending facilities/platforms (this remuneration may also apply to blending operations outside blending facilities/platforms and other actions covered by the blending fee methodology):

For further details on the remuneration, see the explanations on *Article 16* of the General Conditions.

[By way of derogation from Article 16.4 of Annex II, the Organisation, in its capacity as lead finance institution, shall be entitled to a remuneration⁴ of an amount of EUR <xxx> if the Currency of the Agreement is not EUR insert which

“Lead finance institution” refers to the entity entrusted with the implementation of a blending operation. Lead finance institutions include multilateral European financial institutions (such as EBRD), European national development institutions (such as KfW, AFD etc.) and regional or multilateral banks (such as AfDB).

⁴ Excluding the cases of early termination described in the last sentence of Article 3.2 of the Special Conditions, the final amount of remuneration shall be calculated as follows:

A) For **investment grants or interest rate subsidies**, depending on the amount of total eligible direct costs to be reimbursed by the Contracting Authority for the investment grant or interest rate subsidies:

Amount of total eligible direct costs to be reimbursed by the Contracting Authority	Remuneration
≤ EUR 5 714 285.71	7%
> EUR 5 714 285.71 and ≤ EUR 20 000 000	EUR 400 000
> EUR 20 000 000 and ≤ EUR 50 000 000	2%
> EUR 50 000 000	the aggregate of i) EUR 1 000 000 (which covers the estimated amount up to EUR 50 000 000) and ii) 1% on the portion of the estimated amount > EUR 50 000 000.

B) For **technical assistance**, depending on the total eligible direct costs to be reimbursed by the Contracting Authority for the technical assistance:

Amount of total eligible direct costs to be reimbursed by the Contracting Authority	Remuneration
≤ EUR 4 285 714.29	7%
> EUR 4 285 714.29 ≤ EUR 7 500 000	EUR 300 000
> EUR 7 500 000 and ≤ EUR 20 000 000	4%
> EUR 20 000 000	the aggregate of i) EUR 800 000 (which covers the estimated amount up to EUR 20 000 000) and ii) 3% on the portion of the estimated amount > EUR 20 000 000.

In the case of hybrid projects, remuneration for the investment grant/interest rate subsidies and technical assistance shall be calculated separately on the basis of the above and aggregated. The Organisation shall be entitled to a remuneration equal to 80% of the resulting aggregated amount. However, in cases where the remuneration calculated on this basis would be lower than either of the remuneration amounts calculated separately under points A) or B) above, the highest one of these remuneration amounts is applied.

is estimated at <insert Currency of the Agreement> <insert the amount corresponding to the amount of the remuneration in the Currency of the Agreement at the InforEuro rate of the month of signature of this Agreement> **the amount(s) indicated here are indicative and must be calculated by using the methodology detailed under footnote 9 and on the basis of the estimated amount of total eligible direct costs to be reimbursed by the Contracting Authority** for the management and administration of the EU Contribution. This remuneration does not need to be supported by accounting documents.

The final amount of the remuneration will be established by the Contracting Authority in accordance with these Special Conditions and with Articles 16 to 18 of Annex II. However, in case of termination pursuant to Article 12.3 of Annex II, if the total eligible direct costs to be reimbursed by the Contracting Authority do not exceed 30% of the total estimated eligible direct costs to be reimbursed by the Contracting Authority, the Organisation shall be entitled to a minimum remuneration. The amount of this minimum remuneration shall be determined based on the activities carried out by the Organisation until the termination takes effect, up to the limit of 30% of the remuneration laid out in this Article and upon submission of a justified request by the Organisation.]

In case of early termination, the aim of the minimum remuneration is to provide a cushion for the Organisation in case the Action is terminated when no disbursement took place or at its very early stage.

When the termination occurs at later stages (i.e. when the total eligible direct costs to be reimbursed by the Contracting Authority exceed 30% of the total estimated ones), the remuneration shall be calculated according to the applicable grid and based on the total eligible direct costs to be reimbursed by the Contracting Authority.

For additional guidance on blending remuneration, see the instruction note Ares(2021)508429.

3.3

Select one out of the two options:

When the rules of the Organisation do not provide for the reimbursement of interest on pre-financing:

[Interest generated on pre-financing shall not be due.]

When the rules of the Organisation provide for the reimbursement of interest on pre-financing in order to ensure equal treatment of donors:

[Interest on pre-financing shall be treated as follows:]

< describe how interest on pre-financing shall be treated >

Article 4 – Payment arrangements and Reporting

4.1	The pre-financing rate is <... >%. ⁵	Always check the applicable FPPA to see if it includes an arrangement on the pre-financing rate (e.g. the FPPA with Member State Organisations).
4.2	<p>Payments shall be made in accordance with Article 17 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:</p> <p>First option</p> <p>First pre-financing instalment:⁶ <Currency of the Agreement > <amount> [Further pre-financing instalment(s): <Currency of the Agreement > <amount > following the end of the <1st, 2nd, etc. reporting period, from date to date >⁷ corresponding to the Contracting Authority's part of the forecast budget for the subsequent <x> months.] [Forecast balance of the final amount of the EU Contribution, if any (subject to the provisions of Annex II):<Currency of the Agreement> <amount>.]</p> <p>Second option⁸</p> <p>[First pre-financing instalment⁹.....<Currency of the Agreement> <amount> Second pre-financing instalment.....<Currency of the Agreement> <amount> Third pre-financing instalment.....<Currency of the Agreement> <amount> <add as many instalments as years> Forecast balance¹⁰.....<Currency of the Agreement> <amount>] These amounts are indicative and subject to modification in accordance with the provisions of Article 17 of Annex II.]</p>	<p>The choice between option 1 and 2 is to be made in agreement with the Organisation.</p> <p>It is understood that the Organisation and the Contracting Authority will agree on the pre-financing rate referred to in <i>Article 4.1</i> of the Special Conditions duly taking into account the financing needs of the Organisation in accordance with the project implementation schedule and the EU budget availability.</p> <p>The Special Conditions may include terms allowing the reporting period to be adjusted, as and when required, to allow for payments to be requested by the Organisation.</p> <p>The amount of the first pre-financing corresponds to up to 100% of the EU's (in Multi-Donor Actions: proportional) share of the forecast budget for the first 12-month period of the Action (excluding contingencies, if any).</p> <p>The rest of the EU Contribution can be registered in this Article as one global amount, classified as "Further Pre-financing Instalments". In order to simplify implementation when there is a reasonable understanding for the amounts required for the following years, the breakdown per years can be used.</p> <p>In each further instalment of pre-financing, the amount can be released by the EU as soon as the staff costs incurred and the legal commitments represent at least</p>

⁵ The Parties have to agree on a pre-financing rate (X%). The determination of the amount of the pre-financing instalments corresponds to X% of the part of the forecast budget for the following reporting period of the Action which is being financed by the EU (excluding not authorised contingencies). Subject to the provisions of Article 17 of Annex II, each further instalment of pre-financing will thus consist of the remaining part of the budget financed by the EU for the previous period (where pre-financing rate is less than 100%) and the new pre-financing for the forecast budget for the subsequent 12 months, the latter at the pre-financing rate stated in Article 4.1. In the case of blending facilities/platforms, it is always 100%.

⁶ For Contribution Agreements within blending facilities/platforms [The first pre-financing instalment includes 100% of the remuneration mentioned under Article 3.2]

⁷ Unless otherwise provided for in the Special Conditions, the reporting period is every 12 months as from the commencement of the Implementation Period.

⁸ This option can be used if there is a high level of certainty as regards the amounts of the further pre-financing instalments.

⁹ For Contribution Agreements within blending facilities/platforms [The first pre-financing instalment includes 100% of the remuneration mentioned under Article 3.2.]

¹⁰ The forecast balance (final payment), if any, is the difference between the total amount of the EU Contribution and the sum of the previous instalments.

Where the Currency of the Agreement is not EUR insert:

[The sum of the payments in the accounting currency of the Organisation shall not exceed the total EU Contribution in EUR.]

70% of the immediately preceding instalment (and 100% of the earlier ones). The Organisation may submit a request for further pre-financing payment before the end of the reporting period, when the part of the costs paid by the Organisation to its staff or otherwise subject to a legal commitment is more than 70 % of the previous payments. In this case, the following reporting period starts anew from the end date of the period covered by this payment request.

No adjustments of figures are required (unless there is an amendment to the Budget), only the final payment may require re-calculation.

By default, interest on pre-financing is not due. Should the Organisation have the obligation to pay interest, in accordance with its Regulations and Rules (namely, to ensure equal treatment between donors), or as provided for in the FFPA, the conditions for the payment of such interest should be introduced in the Special Conditions.

The FFPA can provide for specific provisions regarding reporting and payment for each Organisation. Please check them. A number of FFPAs include arrangements to pay 100 % pre-financing as a rule (e.g. the IMF FFPA). If no special provisions are applicable, the threshold of pre-financing is from 0% to 100%.

As regards the EU-UN FFA, it is stated that the pre-financing rate may be **up to** 100%. Nevertheless, it is to be noted that for some UN Organisations (this may also be the case for other non-UN Organisations), setting a pre-financing rate that is lower than 100% may not be feasible (e.g. the rules and procedures of the concerned Organisation may prevent it from pre-financing activities out of its own funds) or may cause excessive administrative burden. In such cases, Authorising Officers are recommended to consider setting a pre-financing rate of 100%.

The payment requests (including for the balance) and payments will be made in the "Currency of the Agreement" stated in *Articles 3.1* and *4.2* of the Special Conditions (it may be either EUR or the accounting currency of the Organisation). Nonetheless, the maximum EU Contribution is always expressed in the Special Conditions in EUR as an insurmountable threshold.

<p>4.3</p>	<p>Where the European Commission is the Contracting Authority, insert: [4.3 The Organisation acknowledges that the European Commission intends to progressively introduce an Electronic Exchange System (the “System”) for the electronic management of this Agreement. Where the European Commission is the Contracting Authority and for external action projects, insert: The Organisation shall submit the information referred to in with Article 3.7 b) of Annex II via the System for all reports under this Agreement. The European Commission shall inform the Organisation at least three months prior to the date on which other documents and processes related to this Agreement (including reports, payment requests, communications and formal amendments as per Article 10.1 of Annex II) are to be processed via the System.]</p>	<p>This Article refers to the use of the System OPSYS for management of agreements in future. As regards the reporting modules, this is limited to EU external actions and where the Commission is the Contracting Authority. The “information referred to in Article 3.7 b) of Annex II” refers in particular to the submission/recording in the System OPSYS of the most recent value for each indicator in the Logical Framework Matrix.</p>
<p>4.x</p>	<p>Insert, if needed in accordance with Article 3.4 of Annex II: 4.x <Specify the applicable reporting requirements and length of reporting period, etc.> In case of financing not linked to costs, insert 4.x <additional or differing reporting and payment arrangements for financing not linked to costs> Delete Article 4.1 and 4.2 above if the entire Action is financed by way of financing not linked to costs in accordance with Article 19 of Annex II. In case of a Multi-Donor Action where the EU Contribution is earmarked, insert: [4.x The information required as per Articles 3.7 f), 3.8 b) and c) of Annex II has to be included only for the part of the Action financed by the EU Contribution.]</p>	<p>Separate reporting formats are possible in case of parallel co-financing.</p> <p>Please note that specifying, in line with the provisions of art. 3.4 of the General Conditions, applicable reporting requirements, the length of the reporting period...etc. does not require the approval of a deviation. The same applies in case additional or differing reporting and payment arrangements that are defined, in line with the General Conditions, for financing not linked to costs.</p>

Article 5 – Communication language and contacts

<p>5.1</p>	<p>All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in <specify the language¹¹>. [If requested by the Contracting Authority, and in cases where the language of the Agreement is not English or French, communications shall be accompanied by a translation or a summary in English or French.]</p>	<p>For the avoidance of doubt, <i>Article 5.1</i> of the Special Conditions does not imply the obligation to provide English or French translations where the other language has been defined as the language of the Agreement.</p>
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¹¹ EN, FR, ES or PT.

<p>5.2</p>	<p>Where the European Commission is the Contracting Authority, insert [Subject to Article 4.3, any] [Any] communication relating to the Agreement shall be in writing, shall state the Contracting Authority's contract number and the title of the Action, and shall be dispatched to the addresses below.</p>	<p>The reference to <i>Article 4.3</i> of the Special Conditions is related to the introduction of OPSYS.</p>
<p>5.3</p>	<p>Where the European Commission is the Contracting Authority, insert [Subject to Article 4.3, any] [Any] communication relating to the Agreement, including payment requests and attached reports, and requests for changes to bank account arrangements shall be sent to: For the Contracting Authority Option 1: where the Contracting Authority is the European Commission: [European Commission <Directorate-General for <i>insert responsible DG</i>> For the attention of <address of the finance unit/section> Copies of the documents referred to above, and correspondence of any other nature, shall be sent to: European Commission < Directorate-General for <i>insert responsible DG</i>> For the attention of <address of the management unit/section>] Option 2: where the Contracting Authority is not the European Commission: <address of the Contracting Authority's management department> [A copy of the reports referred to in Article 3 of Annex II and the reports, publications, press releases and updates relevant to the Action referred to in Article 7.5 of Annex II shall be sent to <insert address>] For the Organisation <address of the Organisation for correspondence></p>	<p>The reference to <i>Article 4.3</i> of the Special Conditions is related to the introduction of OPSYS.</p>
<p>5.4</p>	<p>Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.</p>	<p>In case the Special Conditions provide for a functional email address for communication, the delivery of each email shall be confirmed by an acknowledgement of receipt.</p>
<p>5.5</p>	<p>The contact point within the Organisation, which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be: <complete OLAF contact point within the Organisation>.</p>	

5.6 All exchanges concerning the Early Detection and Exclusion System shall take place between the Contracting Authority and the authorised person designated by the Organisation, which is:
<Insert here the contact of the designated person or the contact of the liaison point if there is one>

The authorised person for the purpose of EDES exchanges must be mandatorily indicated in this Article. If no liaison point is in place in the Organisation in this respect, the authorised person has to be designated on purpose. This can also be indicated as a function within the Organisation but in this case the Organisation must ensure business continuity.

Article 6 – Annexes

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

Annex I:	Description of the Action (including the Logical Framework of the Action) ¹²
Annex II:	General Conditions for Contribution Agreements
[Annex II.a:	Provisions applicable only to Multi-Partner Contribution Agreements]
[Annex II.b:	Provisions only applicable to a Contribution Agreement resulting from the award of a grant with or without a call for proposals for EU External Action ¹³]
Annex III:	Budget for the Action ¹⁴
Annex IV:	Financial Identification Form ¹⁵
Annex V:	Standard Request for Payment
[Annex VI:	Management Declaration template] This annex is not needed when there is an arrangement to provide annually the Management Declaration (in which case the Organisation shall download the applicable template available at:

No copy of LEF is needed if contracts/agreements have been signed with the Organisation in the past

Annex I – Description of the Action

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

- Background;
- Relevance of the Action;
- Objectives (overall objective/impact, specific objectives/outcomes) and Outputs with related indicators (mirroring the information as provided in the Logical Framework Matrix);
- Activities including location and duration;
- Methodology;
- Indicative Action Plan and Work Plan for the first year;
- Implementation Arrangements;
- Leverage effect (for blending projects);
- Sustainability;
- Logical Framework Matrix (Logframe);
- General overview on visibility and communication;

¹² Indicative Results Indicators measuring Outputs and Outcomes as determined by the nature of the Action, have to be included in Annex I attached to the Agreement. For blending facilities/platforms, the Logical Framework is optional.

¹³ Also applicable in case of a direct award by a Contracting Authority other than the European Commission.

¹⁴ As there is no standard template for the Budget (except where the Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the Organisation when an agreement is being signed, as a footnote or explanatory note in Annex III.

¹⁵ Where payment is to be made to a bank account which is already known to the Contracting Authority, the Organisation may provide a copy of the relevant financial identification form: http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

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

https://ec.europa.eu/international-partnerships/working-partner-organisations_en.

- l) Where relevant, agreed evaluation and/or verification missions;
- m) Where relevant, any communication activities.

There is no obligation to use a specific template for Annex I (Description of the Action). The Organisation can use its own format or base it on an existing document (namely agreed with the Government and/or other donors), provided that it includes the referred elements and the reporting requirements.

There is no obligation to use any specific form of Logical Framework Matrix of the Action (only the elements constituting it are mandatory, namely: results, indicators, baseline and target for each indicator, source of data) .

There are no fixed templates for Annexes I (Description of the Action) and III and the Organisation can use its own project/ program documents. The Annex III/Budget should reflect the structure normally used by the Organisation in its own accounting system (except where the Contribution Agreement is the result of a call for proposals). It is not advisable to impose models which do not reflect this structure (for instance, Annex III (Budget of the Action) of the PRAG standard grant contract). The advantages of reflecting the budget structure of the Organisation include more robust financial reporting and audit trail showing the link between the financial report and the underlying accounting methods. Whatever template is used, there has to be a clear link between the information included in Annex III (Budget of the Action) and the activities described in Annex I (Description of the Action).

Annex III – Budget

Annex III should be expressed in the Currency of the Agreement.

When the budget is expressed in the accounting currency of the Organisation it is not necessary to have a column with the conversion in EUR (that would be in any case only indicative).

As there is no standard template for the budget (except where the Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the Organisation before the Agreement is signed.

However, regardless of the model used, clarifications on the budget (including details on costs charged and calculations) should be sought by the Contracting Authority's

services during the negotiation process in order to ensure a good understanding of the information contained in the document provided by the Organisation and to avoid any dispute at a later stage. This information should be used for the purpose of the reporting requirements. In particular, the structure of the budget for the Action will determine to a great extent the structure of the financial reports to be provided by the Organisation.

In case of Multi-Partner Agreements, the budget should also reflect the indicative allocation of funds to the different Partners.

6.2 In the event of a conflict between these Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex II **and where applicable** [including Annex [(I.a)] [and [(I.b)]] and those of the other Annexes, the provisions of Annex II **and where applicable** [including Annex [(I.a)] [and] [(I.b)]] shall take precedence.

Article 7 – Additional specific conditions applying to the Action

Optional if a derogation or supplement to some of the articles of the Annexes is needed:

The introduction of additional supplementary provisions and derogations have to follow the applicable approval process as laid down e.g. in the INTPA Companion or the NEAR Map.

For internal policies, BUDG D3 is to be informed of any such additional supplementary provisions and derogations.

Some Organisations have agreed on standard contractual derogations and supplementary provisions reflected in the respective FFPAs. Such provisions have to be copied respectively in *Articles 7.1* and *7.2* of the Special Conditions without introducing a specific derogation/exception in CRIS (EU external Actions).

Interpretative provisions included in FFPAs provide relevant guidance. They should not be introduced in the individual contract.

7.1.x The following shall supplement Annex II:
For any supervisory measures resulting from the Ex-Ante Pillar Assessment or exemption (repeat as necessary in case of Multi-Partner Contribution Agreements):

7.1.1 Pursuant to Article 2 of Annex II the [Organisation] / [<name of the Partner>] shall apply the following ad hoc measures:

< insert ad hoc measures >

For costs of a project office¹⁶:

7.1.x Where the implementation of the Action requires the setting up or the use of one or more project offices, the Organisation and/or the Partners may declare as eligible direct costs the capitalised and operating costs of the structure if all the following conditions are fulfilled:

- a) They comply with the cost eligibility criteria referred to in Article 16.1 of Annex II;
- b) They fall within one of the following categories:
 - i) costs of staff, including administration and management staff, directly assigned to the operations of the project office. The tasks listed in the Description of the Action (Annex I), undertaken by staff assigned to the project office will be directly attributable to the implementation of the Action.
 - ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the project office;
 - iii) depreciation costs, rental costs or lease of equipment and assets composing the project office.
 - iv) costs of maintenance and repair contracts specifically awarded for the operations of the project office;
 - v) costs of consumables and supplies specifically purchased for the operations of the project office;
 - vi) costs of IT and telecommunication services specifically purchased for the operations of the project office;
 - vii) costs of energy and water specifically supplied for the operations of the project office;
 - viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of the project office;
- c) Where costs of the project office are declared as actual costs, the Organisation and/or the Partners may declare as eligible only the portion

In case the Organisation was Pillar assessed, subject to complementary supervisory measures (referred to here as ad hoc measures), such measures must be specified in this Article. The measures are developed and agreed by HQ services for each concerned organisation and may not be altered, unless agreed by the relevant service. The state of play of the Pillar assessment by organisation and the supervisory measures to apply, if any, may be consulted on BUDWEB – Central Repository of Pillar assessed entities

Project office costs may be either declared as actually incurred costs or as simplified cost options. However, if declared as simplified cost, they must have been approved through an ex ante-assessment as per *Article 16.8* of the General Conditions based on the standardised ToR issued by the Commission.

The costs incurred in running offices cover a wide range of items, such as staff (assigned to many different tasks), buildings, equipment, security fees, etc., which may be difficult to track individually or to assign to a specific project.

Therefore, it is possible to reimburse office costs determined on the basis of cost accounting data, thus contributing to the simplification of procedures and reduction of administrative errors linked to the reporting of actual office costs.

If the Organisation signs on behalf of all Partners, the Contracting Authority does not require a concrete mandate. It is the Organisation's responsibility to have such power of attorney.

In cases the Organisation is a UN Body acting as Administrative Agent, such Organisation is entitled to claim the costs of coordination up to a maximum of 1%. The Administrative Agent is appointed by the UN Bodies participating in the Action in the applicable Memorandum of Understanding. Such costs of coordination shall comply with the conditions of *Article 16.1* of the General Conditions and, as a consequence, must be accounted for as direct eligible costs (not as a fee) and the UN Body acting as Administrative Agent must be in the position of providing supporting documents, when so requested. The total amount of direct eligible costs on the basis of which the amount of remuneration is calculated shall include the costs of coordination, if deemed eligible.

¹⁶ To be inserted where the specific action requires it. Depending on the usual costing practices of the Organisation, only part of the list of cost categories may be included.

of the capitalised and operating costs of project office that corresponds to the duration of the Action and the rate of actual use of the project office for the purposes of the Action.

- d) Costs of the project office not declared as actual costs are only eligible if they have been ex ante-assessed by the European Commission.

For Contribution Agreements within blending facilities/platforms insert if needed the leverage effect:

7.1.x This Agreement targets an indicative leverage effect of <insert the figure amount1/amount2> For this purpose, the Organisation shall report within the progress and final reports referred to in Article 3 of Annex II (i) on the target leverage effect, (ii) the achieved leverage effect and (iii) the added value of the EU Contribution.

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

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

For cases of Multi-Partner Contribution Agreements where the Organisation is a UN Body acting as Administrative Agent, insert the following provision:

[7.1.x For the purpose of this Agreement, the Organisation acts as UN Administrative Agent, under the following conditions:

- a) The Organisation shall serve as the administrative interface between the Contracting Authority, other donors and the Participating UN Organisations. The monitoring task established in Article 2.b of Annex II.a shall be implemented in accordance with the mandate of the UN Administrative Agent.
- b) In addition to the tasks described in Article 2 of Annex II.a, the Organisation shall act as Administrative Agent for the UN Organisations and will therefore:
 - i) receive financial contributions from all donors that wish to provide financial support to the Action;
 - ii) administer the funds received, in accordance with its applicable Regulations and Rules, including the provisions relating to winding up the Action and related matters;

The optional provision related to EU restrictive measures only has to be included if no other arrangement (either bilateral or inserted in the applicable FFPA) is in place with the relevant Organisation.

There is no need to include a clause on EU restrictive measures in Contribution Agreements with EU decentralised agencies.

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- iii) subject to availability of funds, disburse such funds to each of the Participating UN Organisations in accordance with instructions from the Steering Committee, taking into account the budget set out in the approved programmatic document/Joint Programme Document¹⁷, as amended in writing by the Steering Committee;
 - iv) consolidate statements and reports, based on submissions provided to the Administrative Agent by each Participating UN Organisation, as set forth in the TOR/Joint Programme Document, and provide these to each donor that has contributed to the Fund/Programme Account and to the Steering Committee;
 - v) provide final reporting, including notification that the Action has been operationally completed;
 - vi) disburse funds to a Participating UN Organisation for any additional costs of the tasks that the Steering Committee may decide to allocate in accordance with the TOR/Joint Programme Document.
- c) A coordination mechanism (referred to as the "Steering Committee")¹⁸ to facilitate the effective and efficient collaboration between the Participating UN Organizations and the host Government for the implementation of the Fund or Programme shall be established. The detailed description of key roles, responsibilities and functions of the Steering Committee is provided in Annex I ("Description of the Action").
 - d) Without prejudice to points 2.b) to 2.k) of Article 2 of Annex II.a), the Organisation shall be solely responsible for the performance of tasks assigned to it in Annex I and in the specific agreement between itself and the Partners.
 - e) By derogation from Article 3 of Annex II, the Organisation shall provide the Contracting Authority with the following reports, in the same language as the Agreement, based on the reports provided by each UN Participating Organisation and prepared in accordance with the accounting and reporting procedures applicable to it:
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¹⁷ For the purposes of this Agreement, an approved programmatic document shall refer to an annual work plan or programme/project document, etc., which is approved by the Steering Committee for fund allocation purposes.

¹⁸ The Steering Committee (SC) is co-chaired by the Government and the UN Resident Coordinator (RC) or the Deputy Special Representative of the Secretary General (DSRSG). Members include the UN and government representatives and may also include donors. The decision on the inclusion of donors is taken at the country level. Steering Committee composition ensures the principles of national ownership, inclusiveness and balanced representation, as well as the need to have a manageable size for decision-making effectiveness.

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- i) annual consolidated narrative progress reports to be provided no later than five months (31 May) after the end of the calendar year;
 - ii) annual consolidated financial reports, as of 31 December with respect to the funds disbursed from the Fund/Programme Account, to be provided no later than five months (31 May) after the end of the calendar year;
 - iii) final consolidated narrative report to be provided no later than six months (30 June) after the end of the year following the financial closing of the Action and/or end of implementation period, whichever comes first;
 - iv) in case of Multi-Donor Actions which continue after the end of the implementation period of this Agreement, a final consolidated financial report, based on uncertified final financial statements and final financial reports, to be provided no later than six months (30 June) after the end of the year following the financial closing of the Action and/or end of implementation period, whichever comes first.

In case the Organisation and/or any of its Partner(s) has not concluded a special arrangement with the Commission (for example, through a financial framework partnership agreement) on the respect of EU restrictive measures, please insert the clauses below. It is underlined that in case of Multi-Partner Contribution Agreements and in accordance with Article 5 of Annex II.a, the insertion of the clauses below remains without prejudice to such special arrangements, concluded with the Organisation and/or its Partner(s), which shall prevail.

[7.1.X The following shall supplement Annex II:

7.1.X.1 Article 1 is supplemented by the following definitions:

EU Restrictive Measures:	restrictive measures adopted pursuant to the Treaty on the Functioning of the European Union and to the EU Restrictive Measures ¹⁹ .
Restricted Person:	any entities, individuals or groups of individuals covered by the EU Restrictive Measures ¹⁹ .

7.1.X.2 Article 2 is supplemented as follows:

¹⁹ Consolidated list (the “EU sanctions list”) presently available at <https://data.europa.eu/euodp/en/data/dataset/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions>. Note that the EU Official Journal is the official source of EU law and, in case of conflict, its content prevails.

2.11

- (a) In their contractual relationship the Parties recognise that under EU law no EU funds or economic resources are to be made available directly or indirectly to, or for the benefit of, Restricted Persons.
- (b) The Organisation shall ensure that no transaction subject to a verified hit against the EU sanctions list shall benefit directly or indirectly from EU funding. The Organisation commits to ensure this i) through screening for hits against EU sanctions before any direct contracts it concludes and ii) at subsequent levels through the Organisation's risk based due diligence.

The Organisation will implement this obligation through the following measures:

- (i) The Organisation shall screen for hits against the EU sanctions list, before entering into, and before making payments under, the relevant agreements, each Contractor and Grant Beneficiary with whom the Organisation has or is expected to have a direct contractual relationship, so as to assess whether such recipient is a Restricted Person.
 - (ii) The Organisation shall ensure, through screening or through other appropriate means (that may include an ex-post verification) on a risk based approach basis, that no entity that has or is expected to have a direct contractual relationship with a Grant Beneficiary in relation to the implementation of the Action and that would receive EU funding ("Indirect Recipient"), is a Restricted Person.
- (c) In the event that the Organisation assesses that any of the recipients of the EU funding referred to in subparagraphs (b)(i) and (b)(ii) is a Restricted Person, and the Organisation decides that the transaction should proceed notwithstanding a verified hit against EU sanctions, the Organisation shall promptly inform the Contracting Authority. Should the Contracting Authority consider that the use of the EU funding in connection with the Agreement would result in a breach of the EU Restrictive Measures, the Contracting Authority shall notify the Organisation within twenty-five (25) Days of the date of the receipt of the Organisation's notice pursuant to the immediately preceding sentence. If the Contracting Authority does not notify the Organisation pursuant to this subparagraph, the Contracting Authority shall be deemed to have no objection.
 - (d) If the Contracting Authority notifies the Organisation pursuant to the immediately preceding subparagraph, the Organisation and the Contracting

Authority shall promptly consult each other with a view to jointly determining remedial measures in accordance with their respective applicable legal frameworks. These measures may include, but shall not be limited to: (A) the reallocation of the relevant portion of the EU funding net of any costs incurred by the Organisation for undertaking any procurement or award procedure unless in case of the Organisation's gross negligence or wilful misconduct; (B) recovery by the Contracting Authority from the Organisation of the amount of the EU funding provided directly or indirectly for the benefit of a recipient referred to in subparagraphs (b)(i) and b)(ii) that is a Restricted Person under the Agreement. Where appropriate, a combination of remedial measures may be applied. Where remedial measures cannot be agreed or if the Organisation nonetheless decides to proceed with a transaction, the corresponding amount shall not be charged (including through the application of the notional approach) to (i) the Action where the Action is exclusively financed by the EU, or in case the Action is Multi-Donor and the maximum EU Contribution is expressed as a percentage of total eligible costs of the Action; or (ii) to the EU Contribution in all other cases. This is without prejudice to any rights that the Contracting Authority may have to suspend or terminate this Agreement or to recover any EU funding contributed by the Contracting Authority to the Organisation.

- (e) The determination of remedial measures will be made in accordance with the principle of proportionality. Remedial measures shall apply only to the EU funding made available to, or for the benefit of, a recipient referred to in subparagraphs (b)(i) and (b)(ii) for the period during which it remained a Restricted Person.
- (f) For the avoidance of doubt, the Parties acknowledge that if a recipient of the EU funding becomes a Restricted Person after the date on which such EU funding was made available to, or for the benefit of, such recipient, subparagraphs (c) and (d) shall not apply to the EU funding made available to, or for the benefit of, the Restricted Person before its listing.
- (g) Preceding subparagraphs (a) to (f) are without prejudice to the exceptions contained in the EU Restrictive Measures.
- (h) The Contracting Authority will not intervene in the Organisation's processes for selecting and engaging with recipients in full respect of the Organisation's Regulations and Rules.]

7.1.x Multi-Donor Actions with donors other than the Contracting Authority and the Organisation/Partners, and with an implementation period of the Action that is shorter than the implementation period of the overall action, choose one of the two options:

- where surplus is distributed pro-rata to all donors: [The Organisation shall submit the final report(s) of the overall action referred to in Article 3.3 of Annex II to the Contracting Authority once available. In the event of a final surplus balance of total financing over expenditures at the end of the overall action, the Organisation shall specify in the final report(s) of the overall action the amount of the surplus balance. An amount of this surplus balance proportionate to the EU Contribution to the overall action shall be refunded to the Contracting Authority. To this end, the Contracting Authority shall issue a recovery order in accordance with Article 14 of Annex II].

- where surplus is used for another agreed purpose: [The Organisation shall submit the final report(s) of the overall action referred to in Article 3.3 of Annex II to the Contracting Authority once available. In the event of a final surplus balance of total financing over expenditures at the end of the overall action, the Organisation shall specify in the final report(s) of the overall action the amount of the surplus balance. The surplus balance shall be treated as follows: <insert the details of the treatment e.g. surplus will be used for similar action and under what conditions>.]

Multi-Donor Actions with donors other than the Contracting Authority and the Organisation/Partners, and the implementation period of the Action is equal to the implementation period of the overall action, choose one of the two options:

- where surplus is distributed pro-rata to all donors: [Article 18.1.b of Annex II shall be supplemented as follows: In the event of a final surplus balance of total financing over expenditures at the end of the Action (including its closure), the Organisation shall specify in the final report the amount of the surplus balance. An amount of this surplus balance proportionate to the EU Contribution to the Action shall be refunded to the Contracting Authority. To this end, the Contracting Authority shall issue a recovery order in accordance with Article 14.”]

- where surplus is used for another agreed purpose: [The following shall supplement this Agreement: In the event of a final surplus balance of total financing over expenditures at the end of the Action (including its closure), the Organisation shall specify in the final report the amount of the surplus balance. The surplus balance shall

be treated as follows: <insert the details of the treatment e.g. surplus will be used for similar action and under what conditions>.]

If needed insert additional supplementary conditions:

7.1.x

7.2x

7.2 The following derogations from Annex II shall apply:

If needed in case the Implementation Period starts later than the entry into force of the Agreement:

7.2.x By derogation from Article 17.1 of Annex II, the first pre-financing instalment shall be paid by <insert date>

If needed for Contribution Agreements within blending facilities insert:

7.2.x By derogation from Article 10.3 of Annex II, any transfers between the Action components that take the form of inter alia investment grant, technical assistance or interest rate subsidies, must be done in accordance with Article 10.1.

If needed, insert additional derogation conditions:

7.2.x By derogation from Article <insert derogation>

For blending operations, “a later date” could also be an event such as the signature of the loan agreement.

Whenever a later date is inserted and the pre-financing is not automatically as per *Article 17.1* of the General Conditions, be mindful of *Article 17.6* of the General Conditions that stipulates if no payment has been made within two years from the signature of the Agreement, the Agreement shall be terminated.

As regards the derogation for the first pre-financing, please also see the comments under *Article 17.1* of the General Conditions.

Final provisions and signature

In case the Contracting Authority is the European Commission²⁰ and the Organisation or a Partner is an International Organisation and any of the Parties signs the Agreement using qualified electronic signature(s)²¹, please add:

If there are Partners, the Organisation can choose to sign on the Partners' behalf or to have everybody sign.

The Contracting Authority should not impose a modality on the Organisation.

²⁰ Please note that when the Contracting Authority is a partner country or a body designated by it, all Parties must conclude the Agreement using a hand-written signature.

²¹ Contribution agreements may be concluded through the use of a ‘qualified electronic signature’ (QES), in compliance with Regulation (EU) No 910/2014 and recognized by the latter having equivalent legal effect to a hand-written signature (see note Ares(2020)7573858 for more details), where both the applicable law and the dispute settlement forum are in an EU Member State (e.g. contribution agreements concluded with Member States Organisations).

In case the applicable law and the dispute settlement forum are not in an EU Member State (contribution agreements signed with International Organisations), contribution agreements may be concluded ‘electronically’ subject to the introduction, in these Special Conditions, of ad-hoc provisions through which the Parties recognize the validity of each other’s electronic signatures. In this context, please note that the Commission may only use and recognize the QES, which is equivalent to a hand-written signature, in accordance with the above-mentioned EU Regulation.

[The Parties accept the validity of any qualified electronic signature used for the signature of this Agreement and recognise the latter as equivalent to a hand-written signature.]

Select one of the following when the Contracting Authority is a Partner Country or when at least one Party uses a hand-written signature:

In case there are no Partners:

Done in <specify the place(s)> in three originals in the English language, two for the Contracting Authority and one for the Organisation.

In case the Organisation implements the Action together with Partners and does not sign on behalf of the Partners:

Done in <specify the place(s)> in <specify> originals in the English language, two for the Contracting Authority, one for the Organisation and one for each Partner.

In case the Organisation implements the Action together with Partners and signs on behalf of the Partners (no signature from Partners are added):

Done in <specify the place(s)> in three originals in the English language, two for the Contracting Authority and one for the Organisation. The Organisation also signs this Agreement on behalf of all Partners.

In case all Parties, including the Contracting Authority (only applicable when the latter is the European Commission), conclude this Agreement through the use of QES:

Done in <specify the place(s)> in the English language.