

ANNEX I TO FINANCING AGREEMENT N° ENI/ 2018 / 041-404

TECHNICAL AND ADMINISTRATIVE PROVISIONS

**Support to Integrated Border Management in Jordan**

<b>1. Title/basic act/ CRIS number</b>	EU support to Integrated Border Management in Jordan, CRIS number: 2018 / 041-404 financed under the European Neighbourhood Instrument			
<b>2. Zone benefiting from the action/location</b>	The Hashemite Kingdom of Jordan			
<b>3. Programming document</b>	Annual Action Programme 2018 / Single Support Framework 2017-2020			
<b>4. Sector of concentration/ thematic area</b>	Single Support Framework 2017-2020, 3rd Focal sector "Upgrading border management and preventing violent extremism"	DEV. Aid: YES		
<b>5. Amounts concerned</b>	Total estimated cost: EUR 11,000,000 Total amount of Union budget contribution EUR 11,000,000			
<b>6. Aid modality(ies) and implementation modality(ies)</b>	<b>Project Modality</b>  <b>Indirect management</b> with International Organisations: International Centre for Migration Policy Development (ICMPD) and United Nations Office on Drugs and Crime (UNODC)			
<b>7 a) DAC code(s)</b>	15130 - Legal and judicial development (border management) 33120 - Trade facilitation			
<b>b) Main delivery channels</b>	40000 – Multilateral Organisations			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Participation development/good governance	<input type="checkbox"/>	X	<input type="checkbox"/>
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women In Development)	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	<input type="checkbox"/>	X
	Reproductive, Maternal, New	X	<input type="checkbox"/>	<input type="checkbox"/>

	born and child health			
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A			
<b>10. Sustainable Development Goals (SDGs)</b>	Main SDG Goals: 16 Develop effective, accountable and transparent institutions at all levels Secondary SDG Goal: 8			

## 1. DESCRIPTION OF THE ACTION

### 1.1 Objectives/results

The **overall objective** of the action is "to contribute to the development of the long-term capability of Jordan to control and manage its borders and to ensure greater security for citizens and visitors, while guaranteeing the respect for the rule of law and human rights standards".

The **specific objectives** (SOs) are to:

- SO1. support the development of an integrated approach to border management;
- SO2. enhance capacities to fight transnational crime;
- SO3. strengthen trade facilitation practices and measures.

The **key results** are:

- For SO1 a national border strategy is in place and implemented; selected border crossing points have improved procedures and equipment; border management agencies capacity to apply a rights-based approach is enhanced.
- For SO2 operational capacities of the agencies to fight cross border crime are strengthen also through improved analysis and strategies; national, regional and international cooperation is improved.
- For SO3 development of supply chain security and authorised economic operator systems; speed up of clearance time while guaranteeing security.

Interventions under this project are fully in line with the Partnership Priorities adopted by Jordan and the EU in December 2016 and will contribute to Sustainable Development Goal

16 of the 2030 Agenda: *'Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels'*, in particular target 16.a *'Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime'*.

The intervention will be structured around the following outcomes and outputs:

**SO1 To support the development of an integrated approach to border management**

**Outcome 1: Existing border policies are enhanced and aligned with the integrated border management concept.**

- Output 1.1: A national border strategy in line with integrated border management standards/models, and which will take into account the specific national set-up, is in place and ready for implementation
- Output 1.2: Border crossing points are identified and equipped with necessary operational equipment, IT tools, software and improved procedures
- Output 1.3: Jordanian border management agencies capacity to apply a rights-based approach to promote, respect and protect the human rights of citizens and migrants at borders is strengthened.

**SO2 To enhance capacities to fight transnational crime**

**Outcome 2: Border management agencies capacitated to more effectively dismantle transnational criminal networks with an enhanced profiling and search of suspicious persons and cargo techniques.**

- Output 2.1: Operational capacities of Jordanian frontline agencies to detect transnational organized crime, cross-border illicit trafficking and terrorist movements are strengthened.
- Output 2.2: Border management agencies are trained on specialised investigation techniques to dismantle transnational criminal networks.
- Output 2.3: Border management agencies are trained on criminal information analysis and on building up proactive and reactive strategies.

**Outcome 3: Strong national and regional cooperation mechanisms in place to facilitate the implementation of new border management policies, in line with integrated border management concept.**

- Output 3.1: National information exchange and cooperation mechanisms are improved.
- Output 3.2: Operational regional/international cooperation is facilitated

**SO3 To strengthen trade facilitation practices and measures**

**Outcome 4: Jordan's legal border crossings and cross border trade are developed**

- Output 4.1: IBM workflows, completion and implementation of inter-agency blueprints are developed.
- Output 4.2: Supply chain security and Authorised Economic Operator (AEO) systems are developed, as means of speeding clearance times but ensuring the necessary level of border security.
- Output 4.3: IT solutions are developed to improve electronic communication between Headquarters and Border Crossing Points.

## 1.2 Main activities

The action intends to build upon what has taken place in border management development (internally and externally driven) over recent years, where a good foundation will enable a) a more advanced level of technical input b) the improvement of inter-agency and international cooperation through a strategic and institutionalised approach.

The following type of indicative activities will be performed under each specific objective:

### **SO1 To support the development of an integrated approach to border management**

- Deliver introduction to IBM capacity building through interactive technical seminars, focussed on policies, practices and legislation;
- Conduct IBM gap and need analysis (GNA), including donor mapping and legal review;
- Support development of IBM Strategy and action plans;
- In coordination with civil society, delivery of border community awareness-raising campaigns to enhance public outreach;
- Development of IBM workflows, improving cooperation in between border management agencies, agencies of other ministries and private sector;
- Provide non-military equipment to strengthen the implementation of border management strategy;
- Enhance the existing vetting, oversight and anti-corruption procedures to boost transparency and rule of law.

### **SO2 To enhance capacities to fight transnational crime**

- Develop and deliver a training plan to build the capacity of frontline border management agencies;
- Provide non-military equipment to strengthen border management operations;
- Design of training on border security related areas.
- Enhance cooperation at international level and promote an active participation in specialised international agencies (Interpol, Europol, EBCGA, World Customs Organisation, International Labour Organisation, etc.) and cooperation with EU agencies (Europol, EBCGA, CEPOL) ;

- Support to cross border and international legal cooperation, through practical tests and live operations.

### **SO3 To strengthen trade facilitation practices and measures**

- Selection of a pilot BCP and setting up a trade facilitation pilot working group;
- Review of the present customs procedures, including trade irritants, at the pilot BCP and identification of potential improvements;
- Assistance to the Customs agency in improving the AEO system and supply chain security based on the updated (2018) SAFE AEO programme;
- Introduce simplified customs clearance procedures at BCP;
- Support Code of Conduct for customs trusted companies.
- IT working group identifies the optimal IT solution/software and link HQ and BCP (Customs clearance points);

### **1.3 Intervention logic**

The proposed action will build up on the ongoing efforts to support the strengthening of Government institutions active in the area of border management and their resilience to withstand internal and external pressures, and to reinforce the role that sound border management can play as a driver of stability, security, and long-term prosperity.

It will be structured in three interlinked pillars. The first one focusses on supporting the beneficiaries to develop an integrated approach to border management. This is a key component of the action and will start with needs assessment to develop the capacity building and technical assistance support for a national strategy. Support will also be envisaged to upgrade procedures and equipment at selected BCP. It will be crucial to integrate in this component rights based approach activities which should be embedded in the strategy and procedures. Creating consensus among all the stakeholders on the activities will be challenging considering the security led approach which prevailed until now, therefore a modular and gradual strategy will be adopted engaging in the first stage mainly with the duty bearers, i.e. border agencies. At the same time consultation with rights holders, such as the private sector, local communities and migrants will start in order to identify activities to be implemented in the next stage.

The second pillar will focus on fighting cross border crime and enhancing international cooperation. Here the capacity building activities and supply of equipment will start with the development of a training plan and a needs assessment for the upgrade of the equipment. Finally the last pillar will target trade facilitation, focussing on the review of the existing customs procedures and development of enhanced ones, starting at one pilot BCP.

The three pillars are complementary and many activities will touch crosscutting issues, hence cannot successfully be implemented on their own. To achieve the foreseen results a timeframe of 48 months is forecasted.

The organisational structure to implement the action will comprise, apart from the establishment of a project Steering Committee, a Project Management Team (PMT) with an overall Team Leader responsible for co-ordination and shared support functions to each of the pillars with long-term technical experts as well as short-term experts for specific

technical/policy areas. The PMT shall guarantee synergy between the three pillars, this being one of the key strength of the action. The PMT will be located at one of the stakeholder's premises in Amman.

Policy dialogue will be a key element for the action, especially in its first pillar and the implementation of an integrated approach. It will be pursued through the Steering Committee and will receive technical inputs by the implementers while the Ministry of Interior (MoI)/Law Enforcement Directorates, Customs and the General Intelligence Directorate (GID) will be the key players.

## 2. IMPLEMENTATION

### 2.1 Implementation modalities

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>1</sup>.

#### 2.1.1 Procurement (direct management)

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Communication and visibility	Services	1	3 <sup>rd</sup> Q 2019
Monitoring and evaluation	Services	2	4 <sup>th</sup> Q 2020
Audit	Services	1	2 <sup>nd</sup> Q 2022

#### 2.1.2 Indirect management with the International Centre for Migration Policy Development

A part of this action may be implemented in indirect management with the International Centre for Migration Policy Development (ICMPD) in accordance with Article 62 (1)(c) of Regulation (EU, Euratom) 2018/1046. This implementation entails technical assistance and capacity building on the integrated border management concept as well as activities and supply of equipment linked to trade facilitation. This implementation modality is justified

<sup>1</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

because of ICMPD's experience in implementing programmes in Jordan with the Ministry of Interior and its technical expertise in the area of integrated border management with several projects ongoing in the MENA region, e.g. Lebanon and Tunisia.

The entrusted entity would carry out the following budget-implementation tasks: support the implementation of the first and fifth outcome, i.e. technical assistance on the establishment of a national IBM strategy; award the contracts and financial resources for the needs assessment and supply of equipment; capacity building on the human rights component; provide trainings, capacity building and equipment on trade facilitation related activities.

If negotiations with the above-mentioned entrusted entity fail, that part of this action may be implemented in indirect management with the UNODC. The implementation by this alternative entrusted entity would be justified because of UNODC's specific experiences in Jordan as implementer of several projects in the same field, including the Container Control Programme (CCP) and the EU funded support to the Karameh/Trebil BCP. The alternative entrusted entity would carry out the same budget-implementation tasks above-mentioned.

The entrusted international organisations are currently undergoing the ex-ante assessment in accordance with Article 154(3) of Regulation (EU, Euratom) No 2018/1046. The Commission's authorising officer responsible deems that, based on the compliance with the ex-ante assessment based on Regulation (EU, Euratom) No 1605/2002 and long-lasting problem-free cooperation, the international organisation[s] can be entrusted with budget-implementation tasks under indirect management.

### **2.1.3 Indirect management with the United Nations Office on Drugs and Crime**

A part of this action may be implemented in indirect management with the United Nations Office on Drugs and Crime (UNODC). in accordance with Article 62(1)(c) of Regulation (EU, Euratom) 2018/1046. This implementation entails capacity building and technical assistance activities on enhancing border management capacities to fight transnational crime as well as supply of equipment and activities linked to strengthen regional and international cooperation.

This implementation modality is justified because of UNODC specific experiences in Jordan as implementer of several projects in the same field, including the Container Control Programme (CCP) and the EU funded support to the Karameh/Trebil BCP.

The entrusted entity would carry out the following budget-implementation tasks necessary to achieve the results outlined in outcomes 2, 3 and 4, i.e.: capacity building and technical assistance on profiling and research of suspects for cargos and people on the move; award of contracts and payments for the supply of equipment; provide the technical resources for enhancing international cooperation.

If negotiations with the above-mentioned entrusted entity fail, that part of this action may be implemented in indirect management with ICMPD. The implementation by this alternative entrusted entity would be justified because of ICMPD's experience with implementing projects in Jordan and specific knowledge of the sector with several IBM projects implemented in the MENA region. The alternative entrusted entity would carry out the same budget-implementation tasks above-mentioned

The entrusted international organisations are currently undergoing the ex-ante assessment in accordance with Article 154(3) of Regulation (EU, Euratom) 2018/1046. The Commission's

authorising officer responsible deems that, based on the compliance with the ex-ante assessment based on Regulation (EU, Euratom) No 1605/2002 and long-lasting problem-free cooperation, the international organisation[s] can be entrusted with budget-implementation tasks under indirect management.

## 2.2 Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

## 2.3 Indicative budget

	<b>EU contribution (EUR)</b>
2.1.2 and 2.1.3 – Indirect management with international organisations	10.000.000
2.6 – Evaluation, 2.7 - Audit	200.000
2.8 – Communication and visibility	300.000
Contingencies	500.000
<b>Totals</b>	<b>11.000.000</b>

## 2.4 Organisational set-up and responsibilities

In order to achieve its overall objective this 48 months intervention will be implemented with a project modality through indirect management with the ICMPD and the UNODC.

The Ministry of Planning and International Co-operation (MoPIC) is the signatory of the Financing Agreement and the project supervisor, with overall responsibility for co-ordination with the EU and stakeholders involved.

In order to ensure co-ordination between the action components and the numerous stakeholders, a project Steering Committee (SC) will be established to guide the implementation of the action. The SC will be chaired by The Ministry of Planning and International Co-operation and will include representatives from PSD, Customs, GID, other relevant beneficiary institutions, and the European Union as observer. The implementers will support the proper functioning of the SC and will attend if invited. Their role will include: preparation of the agenda, sending the invitations and follow up of the minutes. The SC will



meet at least quarterly (and more often if specific problems or issues so require). Additional thematic technical working groups will be established under each component and include the implementing partners to ensure a closer coordination among the stakeholders as well – as appropriate – implementing partners from other EU funded projects operating in the field of border management.

Relevant civil society organisations and development partners will also be invited to the technical meetings where needed.

## **2.5 Performance monitoring and reporting**

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix (for project modality) or the list of result indicators (for budget support). The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **2.6 Evaluation**

Having regard to the nature and importance of the action, a mid-term and final evaluation(s) will be carried out for this action or its components via independent consultants contracted by the Commission.

The mid-term evaluation will be carried out for problem solving and learning purposes, in particular with respect to the possibility to launch a second phase of the action.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that the action is the first in the sector in Jordan.

The Commission shall inform the implementing partner at least 1 month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities].

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Indicatively, two contracts for evaluation services shall be concluded under a framework contract in the last quarter of 2020.

## **2.7 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

Indicatively, one contract for audit services shall be concluded under a framework contract in the second quarter 2022.

## **2.8 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the action, to be elaborated at the start of implementation and supported with the budget indicated in section 5.5 above.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the action and the appropriate contractual obligations.

## APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action, no amendment being required to the financing Decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
Overall objective (impact)	To contribute to the development of the long-term capability of Jordan to control and manage its borders, while guaranteeing the respect for the rule of law and human rights standards	Number and nature of incidents reported at the borders.  Increase in cross-borders trade flows.	The baseline is to be determined by the survey of current capacities, to be undertaken in the inception phase.  To be defined at inception phase	Survey of current capacities conducted at the end of the project.  Increase in % in cross borders trade flows by the end of the project.	Survey and perception-based surveys at each event/meeting/workshop  Project update reports  National government reports, including Statistical Office (DSO) reports with data provided by relevant Ministries / Border Authorities / Law Enforcement Agencies	
development of an integrated approach to border management	<b>Outcome 1:</b> Existing border policies are enhanced and aligned with the integrated border management concept.	<ul style="list-style-type: none"> <li>Degree of implementation of a national IBM strategy;</li> <li>Degree of efficiency of Communication mechanisms for IBM.</li> </ul>	<ul style="list-style-type: none"> <li>To be defined in the inception report and gaps and needs assessment (early 2019);</li> <li>Border assessment mission (prior to implementation) (early 2019).</li> </ul>	<ul style="list-style-type: none"> <li>Core IBM principles and practices are adopted.</li> </ul>	International organisations and Government reports.	Political commitment.  Willingness to share data/information among agencies.
Outputs	<b>Output 1.1:</b> A national border strategy in line with integrated border management standards/models in place and ready for implementation	<ul style="list-style-type: none"> <li>Number of National Steering Committee (NSC) in place, meeting regularly;</li> </ul>	<ul style="list-style-type: none"> <li>To be defined in the inception report and gaps and needs assessment (early 2019)</li> </ul>	<ul style="list-style-type: none"> <li>1 NSC meeting by mid-2019 and then at least every 6 months;</li> </ul>	MoU, minutes of meetings;  MoU, minutes of meetings; Gaps and needs analysis report and recommendations;	Political commitment.  Willingness to share data/information among agencies.

Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
	<ul style="list-style-type: none"> <li>▪ Number of Technical Committee (TC) in place, meeting regularly;</li> <li>▪ IBM strategy and action plans developed;</li> <li>▪ Number of officials familiar with IBM;</li> <li>▪ Number of persons living in border regions reached out to become familiar with border policies;</li> <li>▪ Number of IBM workflows developed.</li> </ul>		<ul style="list-style-type: none"> <li>▪ TC meeting by mid-2019 and then at least quarterly.</li> <li>▪ 1 strategy and 1 action plan by mid-2019</li> </ul>	<p>Strategy document;</p> <p>International organisations reports and pre/post training questionnaires;</p> <p>Activity report on awareness-raising.</p>	
<p><b>Output 1.2:</b> Border crossing points are identified and equipped with necessary operational equipment, IT tools, software and improved procedures</p>	<ul style="list-style-type: none"> <li>▪ Number of field missions identifying border crossing points;</li> <li>▪ Number and type of equipment provided;</li> <li>▪ Study on interconnectivity and interoperability of databases produced and available;</li> <li>▪ Number of BCPs with modernised physical infrastructure;</li> </ul>	<ul style="list-style-type: none"> <li>▪ 2 (Aqaba in 2015, QAIA in 2016, and Karameh in 2018);</li> <li>▪ 4 inter-agency Units in place at borders (QAIA, Karameh and Aqaba plus one to be identified);</li> <li>▪ Equipment provided by UNODC at QAIA, Karameh and Aqaba;</li> <li>▪ 1 (Karameh, in 2019);</li> <li>▪ No revision of policies yet engaged.</li> </ul>	<ul style="list-style-type: none"> <li>▪ All priority BCPs and key hub cities identified by mid-2019;</li> <li>▪ Units and inter-agency Units at borders have seamless workflows and clearance processes;</li> <li>▪ Increase in the efficiency of controls compared to study;</li> </ul>	<p>International organisations reports and reports/documents from the NSC;</p> <p>International organisations reports;</p> <p>MoUs or other inter-agency agreements/policies signed/enacted;</p> <p>Hand-over documents;</p> <p>Copy of study and recommendations;</p> <p>Architectural plans and handover documents.</p> <p>Official approvals of policies by</p>	<p>Political commitment.</p> <p>Willingness to share data/information among agencies.</p>

Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
	<ul style="list-style-type: none"> <li>Degree of conformity of internal oversight and integrity policies of the agencies.</li> </ul>		<ul style="list-style-type: none"> <li>At least 2 BCPs with a modernised physical infrastructure (Karameh plus another to be identified)</li> <li>all agencies supported by end of the project.</li> </ul>	<p>Heads of agencies.</p>	
<p><b>Output 1.3:</b> Jordanian border management agencies capacity to apply a rights-based approach to promote, respect and protect the human rights of citizens and migrants at borders is strengthened.</p>	<ul style="list-style-type: none"> <li>Number of right's violations identified and referred for further assistance at Jordan's borders.</li> <li>Perception of border management agencies application of a rights-based approach by stakeholders.</li> <li>Existence of dedicated processes for screening for and referring rights violations at border crossing points (BCPs)</li> <li>Feedback by specialised international and national observers on protection and promotion of migrants and refugee rights at borders.</li> </ul>	<p>To be provided in the inception report and gaps and needs assessment, including border policy compliance with rights analysis, and in the communications baseline assessment</p>	<p>Decrease by X% (TBD) in the number of right's violations identified at the BCP.</p> <p>Increase by X% (TBD) in the perception of border management agencies application of a rights-based approach by stakeholders</p> <p>Process for screening and referring rights violations at border crossing points (BCPs) are in place</p> <p>To be defined</p>	<ul style="list-style-type: none"> <li>Application of screening and referral mechanisms</li> <li>Workshop evaluation, feedback, reports.</li> <li>External evaluation report of communications campaign</li> </ul>	<p>Willingness of beneficiaries to engage in project activities</p> <p>Relative stability of the political and security climate in Jordan</p>
<p><b>Outcome 2:</b> Border management agencies capacitated to more effectively dismantle</p>	<ul style="list-style-type: none"> <li>Number of seizures/arrests by each border management</li> </ul>	<ul style="list-style-type: none"> <li>Will be determined at the beginning of the project based on the receipt of</li> </ul>	<ul style="list-style-type: none"> <li>% Increase of annual seizures/arrests</li> </ul>	<p>Annual reports and analyses by agencies;</p>	<p>Shifting effects in illicit trafficking flows to go around Jordan.</p>

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
	transnational criminal networks with an enhanced profiling and search of suspicious persons and cargo techniques.	<ul style="list-style-type: none"> <li>agency</li> <li>Number of complex cases against transnational criminal groups</li> </ul>	<ul style="list-style-type: none"> <li>Operational results for each of the border agencies</li> <li>Operational results reported in 2018.</li> </ul>	<ul style="list-style-type: none"> <li>% increase in the number of investigations on complex cases.</li> </ul>	Analyses by International organisations.	Non-rigorous application of training/equipment.
Outputs	Output 2.1: Operational capacities of Jordanian frontline agencies to detect transnational organized crime, cross-border illicit trafficking and terrorist movements are strengthened.	<ul style="list-style-type: none"> <li>Training plan developed;</li> <li>Number of officials (M/F) per topic trained and indicating operational use of training;</li> <li>Number and type of equipment procured.</li> </ul>	<ul style="list-style-type: none"> <li>3 (2 CCP 2015, 2016 &amp; ongoing update/expansion, and 1 for JAITF QAIA in 2017);</li> <li>136 (60 (1 woman) under CCP 2015-18 &amp; 76 under AIRCOP 2017-2018);</li> <li>3 inter-agency Units office, search and inspection tools;</li> </ul>	<ul style="list-style-type: none"> <li>1 for land borders by mid-2019</li> <li>500 by 2021</li> <li>Equipment provided to all operational staff at priority BCPs;</li> </ul>	<ul style="list-style-type: none"> <li>Copy of training plans;</li> <li>Attendance, pre/post training tests;</li> <li>Handover documents.</li> </ul>	<ul style="list-style-type: none"> <li>Trainees sent to training have the right profile and will stay in their positions during and after training.</li> <li>Timely procurement process.</li> <li>Equipment used for intended purposes.</li> </ul>
Outputs	Output 2.2: Border management agencies are trained on specialised investigation techniques to dismantle transnational criminal networks.	<ul style="list-style-type: none"> <li>Training plan developed and available for implementation;</li> <li>Nr. of officers (M/F) trained on specialised investigation techniques, indicating operational use of training;</li> <li>equipment procured disaggregated by type.</li> </ul>	<ul style="list-style-type: none"> <li>0</li> <li>0</li> <li>0</li> </ul>	<ul style="list-style-type: none"> <li>1 by 20XX (year TBD)</li> <li>to be defined at inception phase</li> <li>to be defined at inception phase</li> </ul>	<ul style="list-style-type: none"> <li>Copy of training plan;</li> <li>Attendance, pre/post training tests;</li> <li>Handover documents.</li> </ul>	<ul style="list-style-type: none"> <li>Trainees sent to training have the right profile and will stay in their positions during and after trainings.</li> <li>Timely procurement process.</li> <li>Equipment used for intended purposes.</li> </ul>
	Output 2.3: Border management agencies are trained on criminal	<ul style="list-style-type: none"> <li>Training plan developed and available for</li> </ul>	<ul style="list-style-type: none"> <li>0</li> </ul>	<ul style="list-style-type: none"> <li>1 by 2019</li> </ul>	<ul style="list-style-type: none"> <li>Copy of training plan;</li> </ul>	<ul style="list-style-type: none"> <li>Trainees sent to training have the right profile</li> </ul>

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
	information analysis and on building up proactive and reactive strategies.	<p>implementation;</p> <ul style="list-style-type: none"> <li>Nr. of officers (M/F) trained on criminal information analysis, indicating operational use of training;</li> <li>Nr. and type of software provided.</li> </ul>	<ul style="list-style-type: none"> <li>0</li> <li>0 licences</li> </ul>	<ul style="list-style-type: none"> <li>15 on theoretical intelligence analysis (ANACAPA) by 2020</li> <li>10 crime analysis software licences by 2020.</li> </ul>	<p>Pre/post training tests; Pass/fail tests;</p> <p>Handover documents.</p>	<p>and will stay in their positions during and after the training. Timely procurement process.</p> <p>Software used for intended purposes.</p>
Specific Objective(s): Outcome(s)	<b>Outcome 3:</b> Strong national and regional cooperation mechanisms in place to facilitate the implementation of new border management policies, in line with integrated border management concept.	<ul style="list-style-type: none"> <li>Number of seizures/arrests per year per agency;</li> <li>Comparison of annual operational results for each agency.</li> </ul>	<ul style="list-style-type: none"> <li>Operational results mentioned in the 2018 activity reports</li> </ul>	<ul style="list-style-type: none"> <li>% increase in the number of seizures/arrests per year per agency;</li> </ul>	<p>Annual reports and analyses by agencies.</p> <p>Analyses by International organisations.</p>	<p>Trust among Jordanian agencies and foreign law enforcement agencies.</p>
Outputs Specific objective(s):	Output 3.1: National information exchange and cooperation mechanisms are improved.	<ul style="list-style-type: none"> <li>Number of inter-agency meetings for (existing) teams at BCPs under previous projects.</li> </ul>	<ul style="list-style-type: none"> <li>3 sets of regular meetings under AIRCOP and CCP.</li> </ul>	<ul style="list-style-type: none"> <li>In addition to existing teams' meetings, regular exchanges at land BCPs.</li> </ul>	<p>Outcome of meetings.</p>	<p>Sufficient vertical and horizontal communication within institutions.</p>
	Output 3.2: Operational regional/international cooperation is facilitated.	<ul style="list-style-type: none"> <li>Nr. of bilateral and sub-regional meetings organised;</li> <li>Nr. of international joint operations organized;</li> </ul>	<ul style="list-style-type: none"> <li>0</li> <li>CCP and AIRCOP organized joint operations including the use of CENcomm and I-24/7 (2015-2019);</li> <li>CCP and AIRCOP</li> </ul>	<ul style="list-style-type: none"> <li>to be defined at inception phase</li> <li>At least 6 by 2021</li> </ul>	<p>Minutes/recommendations from national/international meetings;</p> <p>Press releases for international/national operations;</p> <p>Reports from existing inter-agency Units and annual reports</p>	<p>Political will to cooperate.</p>

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
<p>measures</p> <p>SO3 To strengthen trade facilitation practices and</p>	<p>Outcome 4: Jordan's legal border crossings and cross border trade are developed</p>	<ul style="list-style-type: none"> <li>▪ Nr. of specialised international meetings where Jordan is supported;</li> <li>▪ Nr. of joint trainings at international level;</li> <li>▪ Nr. of simulations/operations at national level;</li> <li>▪ Nr. of training on international legal cooperation.</li> <li>▪ Perception of the border agencies by key stakeholders</li> <li>▪ Feedback by national and international specialised agencies on level of efficiency and effectiveness of legal crossing into/ out of Jordan</li> <li>▪ Public perceptions on border agencies at the Border Crossing Point (BCP) level</li> <li>▪ The speed of clearances at BCP level (effectiveness/speed of</li> </ul>	<ul style="list-style-type: none"> <li>▪ sponsored Jordan participation to international events;</li> <li>▪ 2 for airports under AIRCOP;</li> <li>▪ 0</li> <li>▪ 0 (UNODC project on international cooperation to start in 2018).</li> <li>▪ To be defined in the inception report and gaps and needs assessment, and</li> <li>▪ Border assessment mission (prior to implementation)</li> <li>▪ Equipment and training needs assessment</li> </ul>	<ul style="list-style-type: none"> <li>▪ At least 3 by 2021</li> <li>▪ At least 4 by 2021</li> <li>▪ to be defined at inception phase</li> <li>▪ to be defined at inception phase</li> </ul> <p>2019 - 2021:</p> <ul style="list-style-type: none"> <li>▪ Substantial increase in positive perception by stakeholders.</li> <li>▪ At least 20% increase in efficiency at BCP for clearing goods/people</li> </ul>	<p>from border management agencies.</p> <ul style="list-style-type: none"> <li>▪ Training delivery report</li> <li>• Equipment delivery report</li> <li>• Government and independent experts' evaluation reports</li> </ul>	<p>Willingness of beneficiaries to engage in project activities</p> <p>Relative stability of the political and security climate in Jordan</p>



Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
<p>Output 4.1: IBM workflows, completion and implementation of inter-agency blueprints are developed.</p> <p>Output 4.2: Supply chain security and Authorised Economic Operator (AEO) systems are developed, as means of speeding clearance times but ensuring the necessary level of border security.</p> <p>Output 4.3: IT solutions are developed to improve electronic communication between Headquarters and Border Crossing Points.</p>	<p>passage of people and goods)</p> <ul style="list-style-type: none"> <li>▪ Application of SOPs</li> <li>▪ Number of (or frequency of) conflicts over roles amongst border agencies</li> <li>▪ Number and frequency of joint initiatives and exercises among border agencies</li> <li>▪ Level of cooperation between border agencies and AEOs</li> <li>▪ The speed of clearances at BCP level (effectiveness/speed of passage of people and goods)</li> <li>▪ Reliance on e-solutions to process clearances, and less dependency on paper-based solutions</li> </ul>	<p>(2019-2021):</p> <p>-To be set in the Inception period in the gap and needs assessment report and border assessment mission (prior to implementation)</p> <p>-No relevant AEO systems, -Limited reliable IT solutions for HQ and BCP communication exist</p>	<p>(2019-2021):</p> <p>X Nr. of workflows and agency blueprints developed and X Nr of trade partnerships created (TBD).</p> <p>Reliable IT solution introduced in all BCPs and HQs</p>	<ul style="list-style-type: none"> <li>• Mission reports</li> <li>• Mapping &amp; assessment reports</li> <li>• Formal nomination and selection of trainees</li> <li>• Documentation provided to partners</li> <li>• Formulation, discussion, and endorsement of SOPs</li> <li>• Assessment of the level and quality of Jordanian participation in activities</li> <li>• Feedback on Jordanian participation from experts and international stakeholders</li> <li>• Provision of technical support (i.e. delivery of equipment, infrastructural handover protocols</li> <li>• Assessment reports</li> <li>• Participant lists for trainings, workshops, seminars, study visits</li> </ul>	<p>Willingness of beneficiaries to engage in project activities</p> <p>Relative stability of the political and security climate in Jordan</p>



## ANNEX II - GENERAL CONDITIONS

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## **Part One: Provisions Applicable to Activities for which the Partner is the Contracting Authority**

### **Article 1 - General principles**

- 1.1 The purpose of Part One is to define the tasks entrusted to the Partner in indirect management as described in Annex I (Technical and Administrative Provisions) and to define the rights and obligations of the Partner and of the Commission in carrying out these tasks.

Part One shall apply to the tasks related to the EU contribution alone or in combination with the funds of the Partner or of a third party where such funds are implemented in joint co-financing, i.e. where they are pooled.

These tasks encompass the implementation by the Partner as contracting authority of procedures for the award of procurement contracts, grant contracts and contribution agreements as well as the awarding, signing and enforcing of the resulting procurement contracts, grant contracts and contribution agreements. For the purpose of Part One of this Financing Agreement, every reference to grant contracts shall also include contribution agreement and every reference to grant beneficiaries shall also include organisations having signed contribution agreements.

The designation of entities pertaining to the Partner's government or administrative structure and identified in Annex I (Technical and Administrative Provisions) to carry out certain tasks, does not qualify as sub-delegation. Such entities shall respect the rights and obligations laid down in Part One for the Partner as contracting authorities, while at the same time the Partner remains fully responsible for the fulfilment of the obligations stipulated in this Financing Agreement. References in the Financing Agreement to Partner also encompass those entities.

As contracting authority, the Partner shall act under partial delegation, except when it acts under the imprest component of a programme estimate or under a Partner managed pool fund:

- Under partial delegation, the Partner acts as contracting authority for procurement contracts, grant contracts, whereby the Commission controls ex ante all award procedures and executes all related payments to the contractors and grant beneficiaries;
- Under the imprest component of a programme estimate, the Partner acts as contracting authority for procurement and grant contracts, whereby it may, up to established thresholds, conduct procurement and grant award procedures without or with limited ex ante control of the Commission and execute payments to the contractors and grant beneficiaries, as well as in the context of direct labour.
- Under a Partner managed pool fund, the Partner acts as contracting authority for procurement contracts and grant contracts, whereby the Commission does not control ex ante any award procedure and the Partner executes all related payments to the contractors and grant beneficiaries.

Where the Partner is an ACP State and the action is financed by the EDF pursuant to Article 1.1

of the Special Conditions, the tasks entrusted shall be those listed in points (c) to (k) of the sixth subparagraph of Article 35(1) and in Article 35(2) of Annex IV to the ACP-EC Partnership Agreement

Where the Partner is an OCT and the action is financed by the EDF pursuant to Article 1.1 of the Special Conditions, the implementation of tasks entrusted shall also respect the conditions of Article 86(3) of Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision).

- 1.2 The Partner shall remain responsible for the fulfilment of the obligations stipulated in this Financing Agreement even if it designates other entities identified in Annex I (Technical and Administrative Provisions) to carry out certain tasks. The Commission, in particular, reserves the right to suspend payments, and to suspend and/or terminate this Financing Agreement on the basis of the acts, omissions and/or situations of any designated entity.
- 1.3 The Partner shall set up and ensure the functioning of an effective and efficient internal control system. The Partner shall respect the principles of sound financial management, transparency, non-discrimination, visibility of the European Union in the implementation of the action and avoid situations of conflict of interest.

A conflict of interest exists where the impartial and objective exercise of the functions of any responsible person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

Internal control system is a process aimed at providing reasonable assurance that operations are effective, efficient and economical, that the reporting is reliable, that assets and information are safeguarded, that fraud and irregularities are prevented, detected and corrected, and that risks relating to the legality and regularity of the financial operation are adequately managed, taking into account the multiannual character of the activities as well as the nature of the payments concerned.

In particular, where the Partner carries out payments under the imprest component of a programme estimate or in the framework of a Partner managed pool fund, the functions of the authorising and accounting officers shall be segregated and mutually incompatible and the Partner shall operate an accounting system that provides accurate, complete, reliable and timely information.

- 1.4 Outside the cases where the Partner applies its own (including in the case of a Partner managed pool fund, those agreed upon by the pool fund's donors) procedures and standard documents for the award of procurement contracts and grant contracts, the Partner shall conduct the award procedures and conclude the resulting contracts and agreements in the language of this Financing Agreement.
- 1.5 The Partner shall take the necessary measures to ensure the visibility of EU funding for the activities entrusted to it or for other activities under this action. These measures shall either be defined in Annex I (Technical and Administrative Provisions) or shall be agreed later between the Partner and the Commission.

These communication and information measures shall comply with the Communications and Visibility Requirements for EU External Actions laid down and published by the Commission, in force at the time of the measures.

- 1.6 Under partial delegation and under the imprest component of a programme estimate, the Partner shall keep all relevant financial and contractual supporting documents from the date of the entry into force of this Financing Agreement or as from an earlier date which is stipulated as the start date of cost eligibility in Article 6 of the Special Conditions for five years as from the end of the execution period, in particular, the following:

Procurement procedures:

- a. Forecast notice with proof of publication of the procurement notice and any corrigenda
- b. Appointment of shortlist panel
- c. Shortlist report (incl. annexes) and applications
- d. Proof of publication of the shortlist notice
- e. Letters to non-shortlisted candidates
- f. Invitation to tender or equivalent
- g. Tender dossier including annexes, clarifications, minutes of the meetings, proof of publication
- h. Appointment of the evaluation committee
- i. Tender opening report, including annexes
- j. Evaluation / negotiation report, including annexes and bids received<sup>1</sup>
- k. Notification letter
- l. Supporting documents
- m. Cover letter for submission of contract
- n. Letters to unsuccessful candidates
- o. Award / cancellation notice, including proof of publication
- p. Signed contracts, amendments, riders and relevant correspondence

Calls for proposals and direct award of grants:

- a. Appointment of the evaluation committee
- b. Opening and administrative report including annexes and applications received<sup>2</sup>
- c. Letters to successful and unsuccessful applicants following concept note evaluation
- d. Concept note evaluation report

<sup>1</sup> Elimination of unsuccessful bids five years after the closure of the procurement procedure

<sup>2</sup> Elimination of unsuccessful applications three years after the closure of the grant procedure.

- e. Evaluation report of the full application or negotiation report with relevant annexes
- f. Eligibility check and supporting documents
- g. Letters to successful and unsuccessful applicants with approved reserve list following full application evaluation
- h. Cover letter for submission of grant contract
- i. Award/cancellation notice with proof of publication
- j. Signed contracts, amendments, riders and relevant correspondence.

1.7 The Partner shall ensure an appropriate protection of personal data. Personal data means any information relating to an identified or identifiable natural person.

Personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to the data subject;
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- accurate and, where necessary, kept up to date;
- processed in a manner that ensures appropriate security of the personal data and
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. Personal data included in documents to be kept by the Partner in accordance with Article 16.1 has to be deleted once the deadline set out in Article 16.1 has expired.

Any operation involving the processing of personal data, such as collection, recording, organisation, storage, adaption or alteration, retrieval, consultation, use, disclosure, erasure or destruction, shall be based on rules and procedures of the Partner and shall only be done as far as it is necessary for the implementation of this Financing Agreement.

In particular, the Partner shall take appropriate technical and organisational security measures concerning the risks inherent in any such operation and the nature of the information relating to the natural person concerned, in order to:

- a) Prevent any unauthorised person from gaining access to computer systems performing such operations, and especially unauthorised reading, copying, alteration or removal of storage media; unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored information;
- b) Ensure that authorised users of an IT system performing such operations can access only the information to which their access right refers;
- c) Design its organisational structure in such a way that it meets the above requirements.

## **Article 2 - Deadline for the signature of contracts and agreements by the Partner**

2.1 The procurement contracts and grant contracts shall be signed during the operational implementation period of this Financing Agreement.

When implementing a multi-donor Action, the procurement contracts and grant contracts shall be concluded within the contracting deadline set out in the Special Conditions or set out for the imprest component of the programme estimate.

When the Action is not a multi-donor Action, procurement contracts and grant contracts shall be concluded at the latest within three years of the entry into force of this Financing Agreement.

Additional procurement contracts and grant contracts resulting from an amendment to this Financing Agreement which increases the EU contribution shall be signed at the latest within three years of the entry into force of that amendment to this Financing Agreement, or for a multi-donor Action within the fixed contracting deadline for the additional EU contribution.

The three years-deadline for non-multi-donor Actions may not be extended, except when the action is financed by the EDF. In such cases, the extension shall be stipulated in Article 6 of the Special Conditions.

2.2 However, the following transactions may be signed at any time during the operational implementation period:

- a. amendments to procurement contracts and grant contracts already signed;
- b. individual procurement contracts to be concluded after early termination of existing procurement contracts;
- c. contracts relating to audit and evaluation, which may also be signed during the closure period;
- d. operating costs referred to in Article 5.1;

2.3 After expiry of the deadlines referred to in Article 2.1, the financial balance for the related activities entrusted to the Partner for which contracts have not been duly signed shall be decommitted by the Commission.

2.4 No such decommitment shall apply to the funds budgeted for audit and evaluations referred to in Article 2.2.c) or the operating costs referred to in Article 2.2.d).

Likewise, no such decommitment shall apply to any financial balance of the contingency reserve or to funds available again after early termination of a contract referred to in Article 2.2.b), which both may be used to finance contracts referred to in Article 2.2.

## **Article 3 – Exclusion and administrative sanctions**

3.1 Exclusion criteria



- 3.1.1 When applying the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts, the Partner shall accordingly ensure that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant if the economic operator or grant applicant either itself, or a person having powers of representation, decision making or control over it, is in one of the exclusion situations provided for in the relevant procedures and standard documents of the Commission.
- 3.1.2 When applying its own (including, in the case of a Partner managed pool fund, those agreed upon by the pool fund's donors) procedures and standard documents for the award of procurement and grant contracts, the Partner shall adopt measures, in accordance with its own national legislation, to ensure that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant if the Partner becomes aware that these entities:
- a) or persons having powers of representation, decision making or control over them, have been the subject of a final judgement or of a final administrative decision for fraud, corruption, involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
  - b) or persons having powers of representation, decision making or control over them have been the subject of a final judgement or of a final administrative decision for an irregularity affecting the EU's financial interest;
  - c) are guilty of misrepresentation in supplying the information required as a condition of participation in the procedure or if they fail to supply this information;
  - d) have been the subject of a final judgment or of a final administrative decision establishing that the entities have created an entity under a different jurisdiction with the intention to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business;
  - e) have been created with the intention described in point d) above as established by a final judgment or a final administrative decision.

The Partner may take into account, as appropriate and on its own responsibility, the information contained in the Commission's Early Detection and Exclusion System when awarding procurement and grant contracts. Access to the information can be provided through the liaison point(s) or via consultation to the Commission (European Commission, Directorate-General for Budget, Accounting Officer of the Commission, BRE2-13/505, B-1049 Brussels, Belgium and by email to [BUDG-C01-EXCL-DB@ec.europa.eu](mailto:BUDG-C01-EXCL-DB@ec.europa.eu) in copy to the Commission address identified in Article 3 of the Special Conditions). The Commission may refuse payments to a contractor or grant beneficiary in an exclusion situation.

### 3.2 Information duty

The Partner shall inform the Commission when an economic operator or grant applicant is in a situation referred to in Article 3.1, or has committed irregularities and fraud, or has been found in serious breach of its contractual obligations.

### 3.3 Administrative sanctions

Where the Partner becomes aware of one of the situations referred to in Article 3.1 in the implementation of the tasks described in Annex I, the Partner shall, under the conditions of its national legislation, impose upon the economic operator or grant applicant, an exclusion from its future procurement or grant award procedures and/or a financial penalty proportional to the value of the contract concerned. Such financial penalties or exclusions shall be imposed following an adversarial procedure ensuring the right of defence of the person concerned.

The Partner may be exempted from the obligations under the first paragraph where:

- the Partner's national legislation does not allow to impose an exclusion and/or a financial penalty,
- the protection of the EU's financial interests requires to impose an administrative sanction within deadlines incompatible with the Partner's internal procedures,
- the imposition of an administrative sanction requires a mobilisation of resources beyond the Partner's means,
- its national legislation does not allow to exclude an economic operator from all EU financed award procedures.

In such cases, the Partner will notify its impediment to the Commission. The Commission may decide to impose to the economic operator or grant applicant an exclusion from future EU financed award procedures and/or a financial penalty between 2 % and 10 % of the total value of the contract concerned.

#### **Article 4 - Partial delegation**

##### **Award procedures**

4.1 The tasks shall be carried out by the Partner in accordance with the procedures and standard documents laid down and published by the Commission for the award of procurement contracts and grant contracts, in force at the time of the launch of the procedure in question.

##### **Ex ante control**

4.2 To allow ex ante control, the Partner shall submit tender dossiers and documents for calls for proposals, to the Commission for approval before launching invitations to tender and calls for proposals. Likewise, the Partner shall invite the Commission to the opening of tenders and proposals, and shall provide the Commission with copies of tenders and proposals received. The Partner shall notify the Commission of the results of the examination of tenders and proposals and shall submit the award proposal, as well as the draft procurement contracts and grant contracts to the Commission for approval.

During the implementation of the procurement contracts and grant contracts, the Partner shall equally submit draft addenda and draft administrative orders thereto, to the Commission for prior approval.

The Partner shall invite the Commission for provisional and final acceptance.

##### **Report / Management Declaration**

- 4.3 If Article 5 of the Special Conditions so provides, the report on the implementation of the tasks entrusted to the Partner shall follow the template provided in Annex III and the management declaration shall follow the template provided in Annex IV. An independent external audit opinion on the management declaration, performed in accordance with internationally accepted auditing standards, does not have to be provided in this case as the Commission shall conduct the audits for this action. These audits will verify the truthfulness of the assertions made in the management declaration and the legality and regularity of the underlying transactions made.

#### **Payment procedures**

- 4.4 The Partner shall provide the Commission with the approved payment requests within the following deadlines, starting from the date of receipt of the payment request, not counting the periods of suspension of the time-limit for payment:
- (a) for pre-financing specified in the procurement contract and grant contract:
    - (i) 15 calendar days for an action financed under the Budget;
    - (ii) 30 calendar days for an action financed under the EDF;
  - b) 45 calendar days for other payments

The Commission shall act in accordance with Articles 4.9 and 4.10 within the period amounting to the time-limit for payment provided for in the procurement contract and grant contracts minus the above deadlines.

- 4.5 Upon receipt of a payment request from a contractor, or grant beneficiary, the Partner shall inform the Commission of its receipt and shall immediately examine whether the request is admissible, i.e. whether it contains the identification of that contractor or grant beneficiary, the contract or agreement concerned, the amount, the currency and the date. If the Partner concludes that the request is inadmissible, it shall reject it and inform the contractor or grant beneficiary of this rejection and of its reasons within 30 days of receipt of the request. The Partner shall also inform the Commission of this rejection and its reasons.
- 4.6 Upon receipt of an admissible payment request, the Partner shall examine whether a payment is due, i.e. whether all contractual obligations justifying the payment have been fulfilled, including examining a report, where applicable. If the Partner concludes that a payment is not due, it shall inform the contractor or grant beneficiary thereof and of the reasons. The dispatch of this information suspends the time-limit for payment. The Commission shall receive a copy of the information so dispatched. The Commission shall also be informed of the reply or corrective action of the contractor or grant beneficiary. That reply or action aimed at correcting the non-compliance with its contractual obligations shall restart the time-limit for payment. The Partner shall examine this reply or action pursuant to this paragraph.
- 4.7 If the Commission disagrees with the Partner's conclusion that a payment is not due, it shall inform the Partner thereof. The Partner shall re-examine its positions and, if it concludes that the payment is due, it shall inform thereof the contractor or grant beneficiary. The suspension of the time-limit for payment shall be lifted upon dispatch of this information. The Partner shall also inform the Commission. The Partner shall further proceed as provided for in Article 4.8.

If disagreement between the Partner and the Commission persists, the Commission may pay the undisputed part of the invoiced amount provided that it is clearly separable from the disputed amount. It shall inform the Partner and the contractor or grant beneficiary of this partial payment.

- 4.8 Where the Partner concludes that the payment is due, it shall transfer the payment request and all necessary accompanying documents to the Commission for approval and payment. It shall provide an overview of how many days of the time-limit for payment are left and of all periods of suspension of this time-limit.
- 4.9 After transfer of the payment request pursuant to Article 4.8, if the Commission concludes that the payment is not due, it shall inform the Partner and, in copy, the contractor or grant beneficiary thereof and of the reasons. Informing the contractor or grant beneficiary shall have the effect of suspending the time-limit for payment, as provided for in the contract concluded. A reply or corrective action of the contractor or grant beneficiary shall be treated by the Partner in accordance with Article 4.6.
- 4.10 Where the Partner and the Commission conclude that the payment is due, the Commission shall execute the payment.
- 4.11 Where late-payment interest is due to the contractor or grant beneficiary, it shall be allocated between the Partner and the Commission pro rata to the days of delay in excess of the time limits stipulated in Article 4.4, subject to the following:
- (a) the number of days used by the Partner is calculated from the date of the registration of an admissible payment request referred to in Article 4.6 to the date of the transfer of the request to the Commission referred to in Article 4.8 and from the date of information by the Commission referred to Article 4.9 to the following transfer of the request to the Commission referred to in Article 4.8. Any period of suspension of the time-limit for payment shall be deducted.
  - (b) the number of days used by the Commission is calculated from the date following that of transfer of the request by the Partner referred to in Article 4.8 to the date of payment and from the date of transfer to the date of informing the Partner pursuant to Article 4.9.
- 4.12 Any circumstances unforeseen by the above procedure shall be solved in a spirit of cooperation between the Partner and the Commission by analogy to the above provisions while respecting the contractual relations of the Partner with the contractor or grant beneficiary.
- Where feasible, one party shall cooperate at the request of the other party in providing useful information for the assessment of the payment request, even before the payment request is formally transferred to or returned from the first party.
- 4.13 A procurement contract or grant contract which has not given rise to any payment within two years of its signature shall be automatically terminated and its funding shall be decommitted, except in case of litigation before judicial courts or arbitral bodies.

## **Article 5 - Imprest component of the programme estimate**

### **Application**

5.1 The programme estimate is a document laying down the programme of activities to be carried out and the human and material resources required, the corresponding budget and the detailed technical and administrative implementing arrangements for the execution of these operational activities over the operational implementation period of this Financing Agreement.

The programme estimate implementing the Financing Agreement must respect the procedures and standard documents concerning programme estimates laid down by the Commission, in force at the time of the adoption of the programme estimate in question.

The body implementing those operational activities within the programme estimate, may be the central government of the Partner itself (central operations) or a commissioned public law or private law body with a public-service mission (public commissioned operations) or, under EDF only, a private law body without a public-service mission on the basis of a service contract (private commissioned operations).

The programme estimate shall have an imprest component and may have a component of specific commitments.

Under the component of specific commitments, Article 4 shall apply.

Under the imprest component of the programme estimate, the implementing body may, up to established thresholds, conduct procurement and grant award procedures without or with limited ex ante control of the Commission and execute payments to the contractors and grant beneficiaries, as well as in the context of direct labour.

Direct labour relates to the operational activities which the implementing body executes directly using staff it employs and/or its existing resources (machinery, equipment, other inputs).

The operating costs incurred by the implementing body may be eligible for EU financing under the imprest component of the programme estimate. If so, they shall be eligible for EU financing during the entire duration of the execution period of this Financing Agreement, unless an earlier start of cost eligibility is stipulated in Article 6 of the Special Conditions. Operating costs are costs of the implementing body incurred in carrying out implementation tasks and include local staff, utilities (e.g. water, gas, and electricity), rental of premises, consumables, maintenance, short-term business trips and fuel for vehicles. They shall not include procurement of vehicles or of any other equipment, or any operational activity. Such ordinary operating costs may be charged and paid in accordance with the implementing body's own procedures.

### **Award procedures**

5.2 Under the imprest component of the programme estimate, the implementing body may carry out, totally or partially, the award procedures for procurement and grant contracts in accordance with its own procedures and standard documents, to the extent that prior evidence is obtained by the Commission that the Partner's implementing body:

- ensures the functioning of an effective and efficient internal control system, and
- applies appropriate rules and procedures for procurement and/or grants.

To the extent that no such evidence is obtained, the award procedures for procurement and grant contracts shall be carried out by the implementing body in accordance with the procedures and standard documents laid down and published by the Commission, in force at the time of the launch of the procedure in question.

#### **Ex ante control**

5.3 Under the imprest component, unless the Technical and Administrative Arrangements of the programme estimate stipulate otherwise, the implementing body shall submit to the Commission for prior approval, the tender dossiers and proposals for award decision of procurement contracts whose value exceeds 100,000 EUR, as well as all guidelines for applications and proposals for award decisions of grant contracts, which follow the procedures and standard documents laid down and published by the Commission.

In addition to the record-keeping obligations laid down in Article 1.6 of these General Conditions, the Partner shall, during the same period, keep all relevant financial and contractual supporting documents.

#### **Management declaration**

5.4 The Partner shall submit to the Commission annually, by the date stipulated in Article 6 of the Special Conditions, a management declaration signed by the Partner using the template in Annex IV.

An independent external audit opinion on the management declaration, performed in accordance with internationally accepted auditing standards, does not have to be provided in this case as the Commission shall conduct the audits for this action. These audits will verify the truthfulness of the assertions made in the management declaration and the legality and regularity of the underlying transactions made.

#### **Payments**

5.5 The Commission shall transfer the first pre-financing instalment, upon signature of the programme estimate by all parties, within 60 calendar days where the programme estimate is financed by the EDF and 30 calendar days where it is financed from the EU Budget,

The Commission shall pay the further pre-financing instalments within 60 calendar days of receiving and approving the payment request and its reports.

Late-payment interest shall be due pursuant to the applicable Financial Regulation. The time-limit for the payment may be suspended by the Commission by informing the Partner, at any time during the period referred to above, that the payment request cannot be met, either because

the amount is not due or because the appropriate supporting documents have not been produced. If information which puts in doubt the eligibility of expenditure appearing in a payment request comes to the notice of the Commission, the Commission may suspend the time-limit for the payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The suspension and the reasons for it shall be communicated to the Partner as soon as possible. The time-limit for the payment shall resume once the missing supporting documents have been provided or the payment request has been corrected.

- 5.6 The Commission shall make payments to a bank account opened at a financial institution accepted by the Commission.
- 5.7 The Partner shall guarantee that funds paid by the Commission can be identified in this bank account.
- 5.8 Transfers in euro shall, if necessary, be converted into the Partner's national currency as and when payments have to be made by the Partner, at the bank rate in force on the day of payment by the Partner.

## **Article 6 – Pool fund managed by the Partner**

### **Application**

- 6.1 The Partner managing a pool fund, may be eligible for an EU Contribution to that pool fund, to the extent that prior evidence is obtained by the Commission that the managing entity within the Partner:
  - ensures the functioning of an effective and efficient internal control system,
  - uses an accounting system that provides accurate, complete and reliable information in a timely manner;
  - is subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
  - applies appropriate rules and procedures for procurement and grants;
  - ensures the ex post publication of information on recipients; and
  - ensures a reasonable protection of personal data.

### **Award procedures**

- 6.2 As regards the EU Contribution to a Partner managed pool fund, the managing entity within the Partner shall carry out the tasks in accordance with its own procedures and standard documents for the award of procurement and grant contracts, or with those agreed upon among the donors.

## Implementation

- 6.3 As regards the EU Contribution to a Partner managed pool fund, in addition to the rights and obligations already laid down in these General Conditions, further rules detailed in Annex V to the Financing Agreement shall apply to the Partner for the implementation of the EU Contribution to the pool fund.

### Article 7 - Publication of information on procurement and grant contracts by the Partner

- 7.1 The Partner undertakes to publish each year in a dedicated and easily accessible place of its internet site, for each procurement and grant contract for which it is contracting authority under the imprest component of the programme estimate referred to in Article 5 and the pool funds referred to in Article 6, its nature and purpose, the name and locality of the contractor (contractors in case of a consortium) or grant beneficiary (grant beneficiaries in case of a multi-beneficiary grant), as well as the amount of the contract.

The locality of a natural person shall be a region at NUTS2 level. The locality of a legal person shall be its address.

If such internet publication is impossible, the information shall be published by any other appropriate means, including the official journal of the Partner.

Article 6 of the Special Conditions shall stipulate the location, on the internet or otherwise, of the place of publication; reference shall be made to this location in the dedicated place of the internet site of the Commission.

- 7.2 Education support and direct financial support to natural persons most in need shall be published anonymously and in an accumulated manner by category of expenditure.

Names of natural persons shall be replaced by "natural person" two years after publication. The name of a legal entity containing that of a natural person involved in this entity shall be treated as a natural person's name.

Publication of names of natural persons shall be waived if such publication risks violating their fundamental rights or damaging their commercial interests.

The Partner shall present a list of data to be published on natural persons with any justifications for proposed waivers of publication to the Commission which must grant prior authorisation to this list. Where necessary, the Commission shall complete the locality of the natural person limited to a region at NUTS2 level.

- 7.3 Publication of the procurement and grant contracts concluded (i.e. signed by the Partner and the contractor or grant beneficiary) during the reporting period shall take place within six months following the date for submitting the report pursuant to Article 6 of Special Conditions.
- 7.4 Publication of contracts may be waived if such publication risks harming the commercial interests of contractors or grant beneficiaries. The Partner shall present a list with such justifications to the Commission which must grant prior authorisation to such publication



waiver.

- 7.5 Where the Commission carries out payments to contractors or grant beneficiaries pursuant to Article 4, it shall ensure the publication of information on procurement contracts and grant contracts according to its rules.

#### **Article 8 - Recovery of funds**

- 8.1 The Partner shall take any appropriate measures to recover the funds unduly paid.

Amounts unduly paid and recovered by the Partner, amounts from financial guarantees lodged on the basis of procurement and grant award procedures, amounts from financial penalties imposed by the Partner, as well as damages awarded to the Partner shall be returned to the Commission.

- 8.2 Without prejudice to the above responsibility of the Partner to recover funds unduly paid, the Partner agrees that the Commission may, in accordance with the provisions of the Financial Regulation applicable and this Financing Agreement, formally establish an amount as being unduly paid under procurement contracts and grant contracts financed under Part One and proceed to its recovery by any means on behalf of the Partner, including by offsetting the amount owed by the contractor or grant beneficiary against any of its claims against the EU and by forced recovery before the competent courts.
- 8.3 To this end, the Partner shall provide to the Commission all the documentation and information necessary. The Partner hereby empowers the Commission to carry out the recovery in particular by calling on a guarantee of a contractor or grant beneficiary of which the Partner is the contracting authority or by offsetting the funds to be recovered against any amounts owed to the contractor or grant beneficiary by the Partner as contracting authority and financed by the EU under this or another Financing Agreement or by forced recovery before the competent courts.
- 8.4 The Commission shall inform the Partner that the recovery proceedings have been initiated (including where necessary before a national court).
- 8.5 Where the Partner is a grant beneficiary of an entity with which the Commission concluded a contribution agreement, the Commission may recover funds from the Partner which are due to the entity but which the entity was not able to recover itself.

#### **Article 9 - Financial claims under procurement and grant contracts**

The Partner undertakes to confer with the Commission before taking any decision concerning a request for compensation made by a contractor or grant beneficiary and considered by the Partner to be justified in whole or in part. The financial consequences may be borne by the EU only where the Commission has given its prior authorisation. Such prior authorisation is also required for any use of funds committed under the present Financing Agreement to cover costs arising from disputes relating to contracts.

**Article 10 - Cost overruns and ways of financing them**

- 10.1 Individual overruns of the budget headings of the activities implemented by the Partner shall be dealt with by reallocating funds within the overall budget, in accordance with Article 25 of these General Conditions.
- 10.2 Wherever there is a risk of overrunning the amount foreseen for the activity implemented by the Partner, the Partner shall immediately inform the Commission and seek its prior authorisation for the corrective activities planned to cover the overrun, proposing either to scale down the activities or to draw on its own or other non-EU resources.
- 10.3 If the activities cannot be scaled down, or if the overrun cannot be covered either by the Partner's own resources or other resources, the Commission may, at the Partner's duly substantiated request, decide to grant additional EU financing. Should the Commission take such a decision, the excess costs shall be financed, without prejudice to the relevant EU rules and procedures, by the release of an additional financial contribution to be set by the Commission. This Financing Agreement shall be amended accordingly.

## **Part Two: Provisions Applicable to Budget Support**

### **Article 11 - Policy dialogue**

The Partner and the EU commit to engage in a regular constructive dialogue at the appropriate level on the implementation of this Financing Agreement.

Where the Partner is an ACP State and this action is financed under the EDF pursuant to Article 1.1 of the Special Conditions, this dialogue may form a part of the broader political dialogue provided for in Article 8 of the ACP-EC Partnership Agreement.

### **Article 12 - Verification of conditions and disbursement**

12.1. The Commission shall verify the conditions for the payment of the tranches of the budget support component, as identified in Annex I (Technical and Administrative Provisions).

Where the Commission concludes that the conditions for payment are not fulfilled, it shall inform the Partner thereof without undue delay.

12.2. Disbursement requests submitted by the Partner shall be eligible for EU financing provided that they are in accordance with the provisions set out in Annex I (Technical and Administrative Provisions) and that they are submitted during the operational implementation period.

12.3. The Partner shall apply its national foreign exchange regulations in a nondiscriminatory manner to all disbursements of the budget support component.

### **Article 13 - Transparency of budget support**

The Partner hereby agrees to the publication by the Commission, of this Financing Agreement and any amendment thereof, including by electronic means, and of such basic information on the budget support which the Commission deems appropriate. Such publication shall not contain any data in violation of the EU laws applicable to the protection of personal data.

### **Article 14 - Recovery of budget support**

All or part of the budget support disbursements may be recovered by the Commission, with due respect to the principle of proportionality, if the Commission establishes that payment has been vitiated by a serious irregularity attributable to the Partner, in particular if the Partner provided unreliable or incorrect information, or if corruption or fraud was involved.

## **Part Three: Provisions Applicable to this Action as a Whole, Irrespective of the Management Mode**

### **Article 15 - Execution period and contracting deadline**

15.1 The execution period of this Financing Agreement shall comprise two periods:

- an operational implementation period, in which the operational activities of the action are carried out. This period shall start on the entry into force of this Financing Agreement or on the date stipulated in the Special Conditions and end with the opening of the closure period.
- a closure period, during which final audit and evaluation are carried out and contracts and the programme estimate for the implementation of this Financing Agreement are technically and financially closed. The duration of this period is stipulated in Article 2.3 of the Special Conditions. It starts after the end of the operational implementation period.

These periods shall be reflected in the agreements to be concluded by the Partner and by the Commission in the implementation of this Financing Agreement, in particular in contribution agreements and procurement and grant contracts.

15.2 Costs related to the operational activities shall be eligible for EU financing only if they have been incurred during the operational implementation period; the costs incurred before the entry into force of this Financing Agreement shall not be eligible for EU financing unless provided otherwise in Article 6 of the Special Conditions. Costs related to final audits and evaluation, to closure activities and operating costs referred to in Article 5.1 shall be eligible until the end of the closure period.

15.3 Any balance remaining from the EU contribution shall be automatically decommitted no later than six months after the end of the execution period.

15.4 In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation period or the closure period, as well as correlatively of the execution period. If agreed upon, the Financing Agreement shall be amended accordingly.

15.5 Article 2 of these General Conditions shall apply to procurement contracts, grant contracts and contribution agreements awarded by the Commission as contracting authority with the exception of the last subparagraph of Article 2.1.

### **Article 16 - Verifications and checks by the Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors**

16.1 The Partner shall assist and support the verifications and checks carried out by the Commission, OLAF and the European Court of Auditors at their request.

The Partner agrees to the Commission, OLAF and the European Court of Auditors conducting documentary and on-the-spot controls on the use made of EU financing under the activities under this Financing Agreement and carrying out a full audit, if necessary, on the basis of

supporting documents of accounts and accounting documents and any other documents relating to the financing of the activities, throughout the duration of this Financing Agreement and for five years from the end of the execution period.

- 16.2 The Partner also agrees that OLAF may carry out on-the-spot checks and verifications in accordance with the procedures laid down by EU law for the protection of the EU's financial interests against fraud and other irregularities.

To that end, the Partner shall grant officials of the Commission, OLAF and the European Court of Auditors and their authorised agents access to sites and premises at which operations financed under this Financing Agreement are carried out, including their computer systems, and to any documents and computerised data concerning the technical and financial management of those operations, and to take every appropriate measure to facilitate their work. Access by authorised agents of the Commission, OLAF and the European Court of Auditors shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject. Documents must be accessible and filed in a manner permitting easy inspection, the Partner being bound to inform the Commission, OLAF or the European Court of Auditors of the exact location at which they are kept.

- 16.3 The checks and audits described above shall also apply to contractors, grant beneficiaries, organisations having signed contribution agreements and subcontractors who have received EU financing.
- 16.4 The Partner shall be notified of on the spot missions by agents appointed by the Commission, OLAF or the European Court of Auditors.

#### **Article 17 - Tasks of the Partner in fighting irregularities, fraud and corruption**

- 17.1 The Partner shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities, fraud or corruption and of any measure taken or planned to deal with them.
- 17.2 The Partner shall ensure and check regularly that the actions financed from the budget are effectively carried out and implemented correctly. It shall take appropriate measures to prevent, detect and correct irregularities and fraud and where necessary, bring prosecutions and recover funds unduly paid.

"Irregularity" shall mean any infringement of this Financing Agreement, implementing contracts and programme estimate or of EU law resulting from an act or omission by anyone who has, or would have, the effect of prejudicing the funds of the EU, either by reducing or losing revenue owed to the EU, or by an unjustified item of expenditure.

"Fraud" shall mean any intentional act or omission concerning:

- 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 EU or the EDF;
- non-disclosure of information in violation of a specific obligation, with the same effect;

- the misapplication of such funds for purposes other than those for which they are originally granted.
- 17.3 The Partner undertakes to take every appropriate measure to prevent, detect and punish any practices of active or passive corruption during the implementation of the Financing Agreement.
- "Passive corruption" shall mean 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 an 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, which has, or would have, the effect of harming the EU's financial interests.
- "Active corruption" shall mean the deliberate action 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, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the EU's financial interests.
- 17.4 If the Partner does not take appropriate measures to prevent fraud, irregularities and corruption, the Commission may adopt precautionary measures including the suspension of this Financing Agreement.

#### **Article 18 - Suspension of payments**

- 18.1 Without prejudice to the suspension or termination of this Financing Agreement according to Articles 26 and 27, respectively, the Commission may suspend payments partially or fully, if:
- a) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed substantial errors, irregularities or fraud in the procurement and grant award procedure or in the implementation of the action, or the Partner has failed to comply with its obligations under this Financing Agreement, including obligations regarding the implementation of the Communication and Visibility plan;
  - b) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this or other Financing Agreements, provided that those errors, irregularities, fraud or breach of obligations have a material impact on the implementation on this Financing Agreement or call into question the reliability of the Partner's internal control system or the legality and regularity of the underlying expenditure;
  - c) the Commission suspects that the Partner committed substantial errors, irregularities, fraud or breach of obligations in the procurement and grant award procedure or in the implementation of the action and needs to verify whether they have occurred.
  - d) it is necessary to prevent significant damage to the financial interests of the EU.
- 18.2 The Commission shall immediately inform the Partner about the suspension of payments and of

the reasons for this suspension.

- 18.3 The suspension of payments shall have the effect of suspending payment time-limits for any payment request pending.
- 18.4 In order to resume payments the Partner shall endeavour to remedy the situation leading to the suspension as soon as possible and shall inform the Commission of any progress made in this respect. The Commission shall, as soon as it considers that the conditions for resuming payments have been met, inform the Partner thereof.

#### **Article 19 - Allocation of funds recovered by the Commission to the action**

Where the action is financed under the EDF, amounts unduly paid and recovered by the Commission, amounts from financial guarantees lodged on the basis of procurement and grant award procedures, amounts from financial penalties imposed, as well as damages awarded to the Commission shall be allocated to this action.

#### **Article 20 - Right of establishment and residence**

- 20.1 Where justified by the nature of the procurement contract, grant contract or contribution agreement, the Partner shall entitle natural and legal persons participating in invitations to tender for works, supply or service contracts or calls for proposals and organisations expected to sign contribution agreements with a provisional right of establishment and residence in the Partner's territory(ies). This right shall remain valid for one month after the contract is awarded.
- 20.2 The Partner shall also entitle procurement contractors, grant beneficiaries, organisations having signed contribution agreements and natural persons whose services are required for the performance of this action and members of their families with similar rights during the implementation of the action.

#### **Article 21 - Tax and customs provisions and foreign exchange arrangements**

- 21.1 The Partner shall apply to procurement contracts, grants contracts and contribution agreements financed by the EU the most favoured tax and customs arrangements applied to States or international development organisations with which it has relations.

Where the Partner is an ACP State, account shall not be taken of arrangements applied by it to the other ACP States or to other developing countries for the purpose of determining the most-favoured-State treatment.

- 21.2 Where a Framework Agreement is applicable, which includes more detailed provisions on this subject, these provisions shall apply as well.

#### **Article 22 - Confidentiality**

- 22.1 The Partner agrees that its documents and data held by an entity with which the Partner is in a contractual relationship regarding them may be forwarded to the Commission by that entity for

the sole purpose of implementing this or another Financing Agreement. The Commission shall respect all confidentiality arrangements agreed between the Partner and that entity.

- 22.2 Without prejudice to Article 16 of these General Conditions, the Partner and the Commission shall preserve the confidentiality of any document, information or other material directly related to the implementation of this Financing Agreement that is classified as confidential.
- 22.3 The Parties shall obtain each other's prior written consent before publicly disclosing such information.
- 22.4 The Parties shall remain bound by the confidentiality until five years after the end of the execution period.
- 22.5 The Partner shall also comply with the obligations under Article 1.7 where the Commission provides personal data to the Partner, for example in the context of procedures and contracts managed by the Commission.

#### **Article 23 - Use of studies**

The contract related to any study financed under this Financing Agreement shall include the right for the Partner and for the Commission to use the study, to publish it and to disclose it to third parties.

#### **Article 24 - Consultation between the Partner and the Commission**

- 24.1 The Partner and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further pursuant to Article 28 of these General Conditions.
- 24.2 Where the Commission becomes aware of problems in carrying out procedures relating to management of this Financing Agreement, it shall establish all necessary contacts with the Partner to remedy the situation and take any steps that are necessary.
- 24.3 The consultation may lead to the amendment, suspension or termination of this Financing Agreement.
- 24.4 The Commission shall regularly inform the Partner of the implementation of activities described in Annex I which do not fall under Parts One and Two of these General Conditions.

#### **Article 25 - Amendment of this Financing Agreement**

- 25.1 Any amendment of this Financing Agreement shall be made in writing, including an exchange of letters.
- 25.2 If the request for an amendment comes from the Partner, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Partner and accepted by the Commission. In



the exceptional cases of an adjustment of the objectives of the action and/or an increase in the EU contribution, such request shall be submitted at least six months before the amendment is intended to enter into force.

- 25.3 If the adjustment both does not significantly affect the objectives of the activity implemented pursuant to Part One of these General Conditions, and if it concerns matters of detail which do not affect the technical solution adopted, and if it does not include the reallocation of funds, or if it concerns reallocations of funds for an amount equivalent to the amount of the contingency reserve, the Partner shall inform the Commission of the adjustment and its justification in writing as soon as possible and may apply that adjustment.
- 25.4 The use of the contingency reserve provided for an action shall be subject to the Commission's prior written approval.
- 25.5 Where the Commission considers that the Partner ceases to perform satisfactorily the tasks entrusted pursuant to Article 1.1 of these General Conditions and without prejudice to Articles 26 and 27 of these General Conditions, the Commission may decide to retake the tasks entrusted from the Partner in order to continue the implementation of the activities on behalf of the Partner after informing the latter in writing.

#### **Article 26 - Suspension of this Financing Agreement**

26.1 The Financing Agreement may be suspended in the following cases:

- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches an obligation under this Financing Agreement.
- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches any obligation set under the procedures and standard documents referred to in Articles 1, 4, 5 and 6 of these General Conditions.
- The Commission may suspend this Financing Agreement if the Partner breaches an obligation relating to respect for human rights, democratic principles and the rule of law, in serious cases of corruption or if the Partner is guilty of grave professional misconduct proven by any justified means. Grave professional misconduct is to be understood as any of the following:
  - a violation of applicable laws or regulations or ethical standards of the profession to which a person or entity belongs, or
  - 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.
- This Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties

cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.

- Neither of the Parties shall be held liable for breach of its obligations under this Financing Agreement if it is prevented from fulfilling them by force majeure, provided it takes measures to minimise any possible damage.

26.2 The Commission may suspend this Financing Agreement without prior notice.

26.3 The Commission may take any appropriate precautionary measure before suspension takes place.

26.4 When the suspension is notified, the consequences for the on-going procurement and grant contracts, contribution agreements and programme estimate shall be indicated.

26.5 A suspension of this Financing Agreement is without prejudice to the suspension of payments and termination of this Financing Agreement by the Commission in accordance with Article 18 and 27 of the General Conditions.

26.6 The parties shall resume the implementation of the Financing Agreement once the conditions allow with the prior written approval of the Commission. This is without prejudice to any amendments of this Financing Agreement which may be necessary to adapt the action to the new implementing conditions, including, if possible, the extension of the operational implementation period, or the termination of this Financing Agreement in accordance with Article 27.

#### **Article 27 - Termination of this Financing Agreement**

27.1. If the issues which led to the suspension of this Financing Agreement have not been resolved within a maximum period of 180 days, either party may terminate this Financing Agreement at 30 days' notice.

27.2. This Financing Agreement shall be automatically terminated, if no implementing contract has been signed within the deadlines of Article 2.

27.3 When the termination is notified, the consequences for the on-going procurement contracts, grant contracts, contribution agreements and programme estimate shall be indicated.

#### **Article 28 - Dispute settlement arrangements**

28.1 Any dispute concerning this Financing Agreement which cannot be settled within a six-month period by the consultations between the parties provided for in Article 24 of these General Conditions may be settled by arbitration at one of the parties' request.

Where the Partner is an ACP State or an ACP regional body or organisation and this action is financed under the EDF, the dispute shall be submitted, prior to arbitration and after the consultations provided for in Article 24 of these General Conditions, to the ACP-EC Council of

Ministers, or, between its meetings, to the ACP-EC Committee of Ambassadors, pursuant to Article 98 of the ACP-EC Partnership Agreement. If the Council or Committee does not succeed in settling the dispute, either party may request settlement of the dispute by arbitration in accordance with Articles 28.2, 28.3 and 28.4.

- 28.2 Each party shall designate an arbitrator within 30 days of the request for arbitration. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in their turn designate a third arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.
- 28.3 The procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.
- 28.4 Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.

