

FINANCING AGREEMENT STATE AND RESILIENCE BUILDING CONTRACT

SPECIAL CONDITIONS

The European Commission, hereinafter referred to as "**the Commission**", acting on behalf of the European Union, hereinafter referred to as "**the EU**",

of the one part, and

The Government of Georgia, hereinafter referred to as "**the Partner**", represented by the Ministry of Foreign Affairs,

of the other part,

have agreed as follows:

Article 1 - Nature of the action

- 1.1. The EU agrees to finance and the Partner agrees to accept the financing of the following budget support action:

COVID-19 Resilience Contract for Georgia
ENI/2020/042-821

This action is financed from the EU Budget under the following basic act: European Neighbourhood Instrument.

- 1.2. The total estimated cost of this action is EUR 75 000 000 and the maximum EU contribution to this action is set at EUR 75 000 000.

This budget support action is composed of a budget support component with a maximum EU contribution of EUR 75 000 000.

- 1.3. The Partner shall not co-finance the action.

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Article 2 – Execution period

- 2.1. The execution period of this Financing Agreement as defined in Article 15 of Annex II (General Conditions) shall commence on the entry into force of this Financing Agreement and end 48 months after this date.
- 2.2. The duration of the operational implementation period is fixed at 24 months.
- 2.3. The duration of the closure period is fixed at 24 months.

Article 3 – Addresses

All communications concerning the implementation of this Financing Agreement shall be in writing, shall refer expressly to this action as identified in Article 1.1 of these Special Conditions and shall be sent to the following addresses:

a) for the Commission

Delegation of the European Union to Georgia
64b Chavchavadze Avenue
0179 Tbilisi, Georgia
Email: delegation-georgia@eeas.europa.eu

b) for the Partner

David Zalkaliani
Minister of Foreign Affairs
4 Chitadze Str., 0188 Tbilisi, Georgia
E-mail: pao@mfa.gov.ge

Article 4 – OLAF contact point

The contact point of the Partner having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF's operational activities shall be Head of European Integration and International Relations Division of the Department of Legal Affairs, Office of the Chief Prosecutor of Georgia; e-mail: nchinkorashvili@pog.gov.ge

Article 5 - Annexes

- 5.1. This Financing Agreement is composed of:
 - (a) these Special Conditions;
 - (b) Annex I: Technical and Administrative Provisions, detailing the objectives, expected results, activities, description of the budget-implementation tasks entrusted and budget of this action;
 - (c) Annex II: General Conditions;

(d) Annex III: Reporting Template - not applicable to and not included in this Financing Agreement;

(e) Annex IV: Management Declaration Template - not applicable to and not included in this Financing Agreement;

5.2. In the event of a conflict between, on the one hand, the provisions of the Annexes and, on the other hand, the provisions of these Special Conditions, the latter shall take precedence. In the event of a conflict between, on the one hand, the provisions of Annex I (Technical and Administrative Provisions) and, on the other hand, the provisions of Annex II (General Conditions), the latter shall take precedence.

Article 6 – Provisions derogating from or supplementing Annex II (General Conditions)

The foreign exchange transfers will be accounted for under the value date of the notification of credit to the Treasury account from the Central Bank. The exchange rate will be the rate the value date of the notification of credit.

Article 7 – Entry into force

This Financing Agreement shall enter into force on the date on which it is signed by the last party.

Done in three original copies, two copies being handed to the Commission and one to the Partner.

For the Partner :

David Zalkaliani

Minister of Foreign Affairs of Georgia

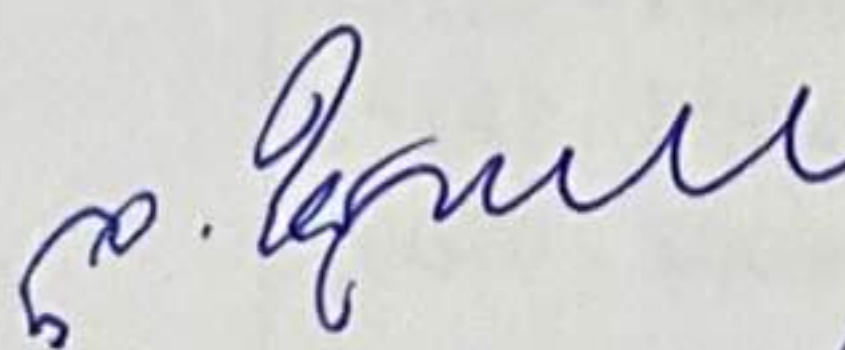
For the Commission :

Lawrence Meredith

Director Neighbourhood East and Institution Building

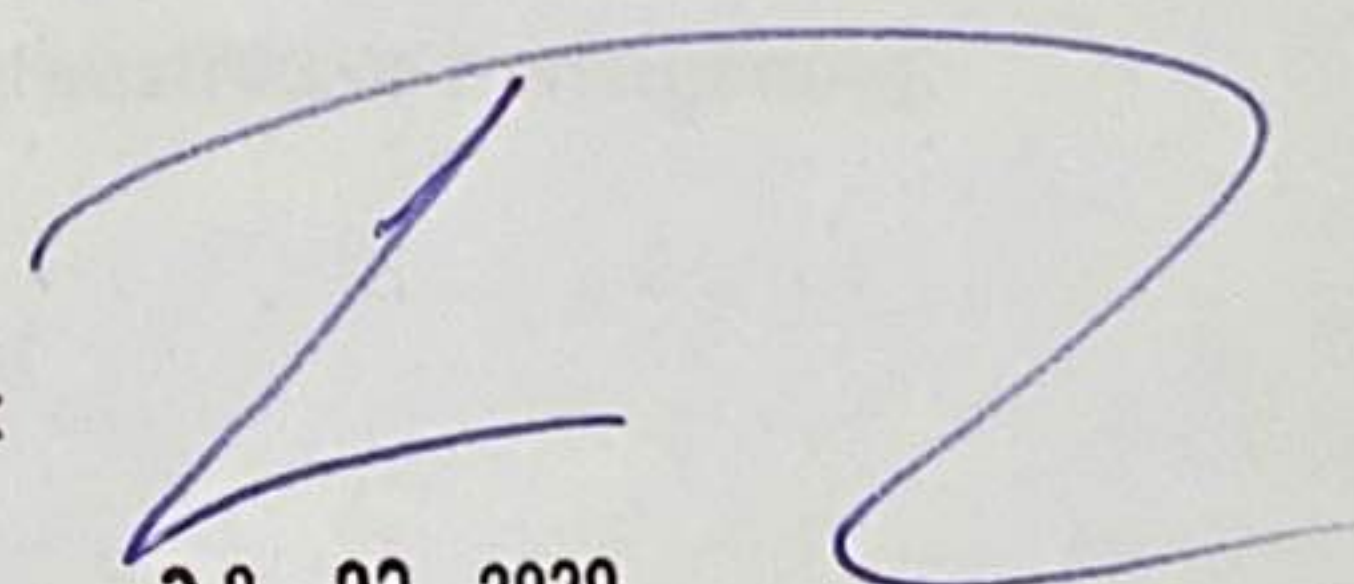
Directorate General for Enlargement and Neighbourhood Negotiations

Signature:



Date :

Signature:



Date :

28. 09. 2020

July 2018

Special conditions.ENI.ENDoc

ANNEX I TO FINANCING AGREEMENT ENI/2020/042-821

TECHNICAL AND ADMINISTRATIVE PROVISIONS

1. Title/basic act/ CRIS number	COVID-19 Resilience Contract for Georgia CRIS number: ENI/2020/042-821 financed under the European Neighbourhood Instrument
2. Zone benefiting from the action/location	Georgia The Action shall be carried out at the following location: countrywide.
3. Programming document	Single Support Framework for EU support to Georgia (2017-2020) ¹
4. Sustainable Development Goals (SDGs)	Main SDGs: - SDG 1 End poverty in all its forms everywhere - SDG 3 Good health and well-being - SDG 8 Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all Other significant SDGs: - SDG 2 Zero hunger - SDG 10 Reduced inequalities
5. Sector of intervention/ thematic area	Economic development and market opportunities Strengthening institutions and good governance
6. Amounts concerned	Total amount of European Union (EU) contribution EUR 75 000 000 of which EUR 75 000 000 for Budget Support
7. Aid modality(ies) and implementation modality(ies)	Budget Support Direct management through: Budget Support (State and Resilience Building Contract)
8 a) DAC code(s)	12110 - Health policy and administrative management 12250 - Infectious disease control 15110 - Public sector policy and administrative management 15125 - Public Procurement 15142 - Macroeconomic policy 16010 - Social protection
8 b) Main Delivery Channel	12000 – Recipient government

¹ Commission Implementing Decision C(2017) 8160 of 7.12.2017 adopting a Single Support Framework for European Union support to Georgia for the period 2017-2020.

9. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Principal objective
	Participation development/good governance	<input type="checkbox"/>	X	<input type="checkbox"/>
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	<input type="checkbox"/>	X	<input type="checkbox"/>
	Disaster Risk Reduction	<input type="checkbox"/>	X	<input type="checkbox"/>
	Inclusion of persons with disabilities	<input type="checkbox"/>	X	<input type="checkbox"/>
	Nutrition	<input type="checkbox"/>	X	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Principal objective
	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"/>
10. Internal markers	Policy objectives	Not targeted	Significant objective	Principal objective
	Migration	X	<input type="checkbox"/>	<input type="checkbox"/>
	COVID response	<input type="checkbox"/>	<input type="checkbox"/>	X

1 DESCRIPTION OF THE ACTION

The Action consists of a new budget support contract. The budget support contract contributes to the comprehensive Anti-Crisis Economic Plan of the GoG. The below summarises the Anti-Crisis Economic Plan:

Results chain			Indicator	Source of data
IMPACT	Impact (overall objective)	To mitigate the health, social and economic impact of the COVID-19 crisis in Georgia.	<i>Level of poverty.</i>	UNDP Human Development Report.
			<i>Percentage of economic contraction / growth in 2020 and 2021.</i>	IMF statistics.
OUTCOME(S)	Outcome 1 (specific objective)	1. Citizens provided with social support to cope with the negative effects of the COVID-19 crisis.	<i>Number of citizens (men and women) having benefited from targeted social support.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
			<i>Amount of social support provided to citizens in the framework of the Anti-Crisis Economic Plan.</i>	
	Outcome 2 (specific objective)	2. Businesses provided with support to manage economic recovery.	<i>Number of economic entities / individuals having benefited of grant programmes from Government entities.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
			<i>Amount of financial support provided to economic entities and individuals.</i>	
	Outcome 3 (specific objective)	3. Health system provided with equipment and supplies to deal with health problems resulting from the COVID-19 crisis.	<i>Amount of financial support to the health sector.</i>	Government Report on Anti-Crisis Economic Plan, WHO, CSOs.
			<i>Number of COVID-19</i>	

Results chain			Indicator	Source of data
INDUCED OUTPUT(S)	Induced Output(s) related to Outcome 1		<i>patients treated by the National Health System</i>	
		1.1 Hired employees who have lost their jobs or are on unpaid leave receive social support.	<i>Number of employees (men/women) having received social support. Average amount of support by categories of population.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
		1.2 Employers who retained jobs receive subsidies.	<i>Number of employers (men/women) having retained jobs who received subsidies. Average amount of subsidies by categories of population. Number of retained jobs.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
		1.3 Persons employed in informal sector or self-employed receive one-time assistance.	<i>Number of persons (men/women) employed in informal sector or self-employed having received one-time assistance.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
		1.4 Vulnerable families receive financial assistance.	<i>Average amount of assistance by categories of population.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
		1.5 Pension indexation introduced in January 2021.	<i>Number of pensions</i>	Government report on Anti-Crisis

Results chain			Indicator	Source of data
			<i>(men/women) indexed.</i> <i>% of indexation by categories of pensioners.</i>	Economic Plan, IMF, OECD, IFIs.
Induced Output(s) related to Outcome 2	2.1 VAT refund mechanism comes into force for businesses.		<i>Number of businesses receiving VAT refund.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
	2.2 SME receive funding secured by SME guarantee scheme.		<i>Number of SMEs (owned by men/women) receiving funding secured by credit-guarantee scheme.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
	2.3 Financial support provided to rural settlements.		<i>Number of rural settlements benefiting from financial support from the Government and regional authorities.</i>	Government report on Anti-Crisis Economic Plan, IMF, OECD, IFIs.
Induced Output(s) related to Outcome 3	3.1 Personal Protective Equipment (PPE) purchased for the healthcare system.		<i>Number and quality of PPE purchased for the healthcare system.</i>	Reports Ministry of Health, WHO, CSOs.
	3.2 Increased capacity to make diagnosis.		<i>Number of WHO recognised COVID-19 tests executed.</i>	Reports Ministry of Health, WHO, CSOs.
	3.3 Increased treatment capacity.		<i>Number of intensive care places available in hospitals.</i>	Reports Ministry of Health, WHO, CSOs.

For that purpose, the budget support contract will assist Georgia through financial transfers, policy dialogue, performance and capacity development.

2 IMPLEMENTATION

2.1 Implementation of the budget support component

2.1.1 *Rationale for the amounts allocated to budget support*

The amount allocated for the budget support component is EUR 75 000 000. This amount stems from the most recent forecasts of the fiscal impact of the crisis, which could result in shortfall of revenue and additional spending estimated at EUR 1 billion.

2.1.2 *Criteria for disbursement of budget support*

a) The general conditions for disbursement of all tranches are as follows:

- Satisfactory progress in the implementation of the Anti-Crisis Economic Plan in response to COVID-19 crisis and continued credibility and relevance thereof;
- Maintenance of a credible and relevant stability-oriented macroeconomic policy or progress made towards restoring key balances;
- Satisfactory progress in the implementation of reforms to improve public financial management, including domestic revenue mobilisation, and continued relevance and credibility of the reform programme;
- Satisfactory progress with regard to the public availability of accessible, timely, comprehensive and sound budgetary information.

b) The performance indicators for disbursement that may be used for variable tranches will aim at promoting actions and measuring their effects in the response to the COVID-19 crisis. A limited number of indicators will be developed which indicatively fall into the below areas of support:

- Social support provided to citizens, such as that for vulnerable or other disadvantaged groups, or for those whose livelihoods are particularly at risk.
- Support provided to business to mitigate the impact of containment measures and/or to foster sustainable and green economic recovery, including possible related structural reform steps.
- Health response to the pandemic and/or health system recovery and health standards improvement.
- Measures to enhance public finance management, including oversight, commensurate with the implementation of a large fiscal stimulus by the public sector.
- Progress on political priorities.

The chosen performance indicators and targets to be used for disbursements will apply for the duration of the Action. However, in duly justified circumstances, the Government of Georgia may submit a request to the Commission for the targets and indicators to be changed.

Note that any change to the targets should be agreed ex-ante at the latest by the end of the first quarter of the assessed year. The agreed changes to the targets and indicators shall be agreed in advance and may be authorised in writing (either through a formal amendment to the financing agreement or an exchange of letters).

In case of a significant deterioration of fundamental values, budget support disbursements may be suspended, reduced or cancelled, in accordance with the relevant provisions of the financing agreement.

2.1.3 *Budget support details*

The budget support component consists of a fixed and a variable tranche to be disbursed indicatively in September 2020 (EUR 60 000 000 fixed tranche) and mid-2021 (EUR 15 000 000 variable tranche).

Budget support is provided as direct untargeted budget support to the national treasury. The crediting of the euro transfers disbursed into Georgian Lari will be undertaken at the appropriate exchange rates in line with the relevant provisions of the financing agreement.

2.2 Indicative budget

	EU contribution (amount in EUR)	Indicative third party contribution, in currency identified
Budget support	75 000 000	N/A
Evaluation and audit (ex-post)	N.A. (To be covered by Global Allocation)	N/A
Total	75 000 000	N/A

2.3 Organisational set-up and responsibilities

As part of its prerogative of budget implementation and to safeguard the financial interests of the Union, the Commission may participate in the above governance structures set up for governing the implementation of the Action.

2.4 Performance and results 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 Government's responsibilities. In addition to the regular budget execution reports the Government will regularly prepare and publish a report on the implementation of the Anti-Crisis Economic Plan. 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 as measured by corresponding indicators, using the Anti-Crisis Economic Plan as reference.

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).

2.5 Evaluation

Having regard to the importance of the Action, an ex-post evaluation(s) will be carried out for this Action or its components via independent consultants contracted by the Commission.

The evaluation of this Action may be performed individually or through a joint strategic evaluation of budget support operations carried out with the partner country, other budget support providers and relevant stakeholders.

The Commission shall inform the implementing partner at least 60 days 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.

The financing of the evaluation shall be covered by another measure constituting a Financing Decision.

2.6 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.

The financing of the audit shall be covered by another measure constituting a Financing Decision.

2.7 Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU. This obligation will be covered by the service contract "EU4Georgia phase 3 - Communicating the European Union in Georgia". The contractor will ensure effective and correct communication based on the Communication and Visibility Requirements for European Union External Actions (or any succeeding document). These requirements shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations. Additional Visibility Guidelines developed by the Commission (European Neighbourhood Policy and Enlargement Negotiations) and the Delegation to Georgia will be strictly adhered to.

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. It is the responsibility of the implementing organisations to keep the EU Delegations and, where relevant, the Commission (DG NEAR), fully informed of the planning and implementation of the appropriate milestones specific visibility and

communication activities. The implementing partners shall grant an irrevocable licence to the EU to use communication material produced by them in the context of initiatives funded under the action document.

For the purpose of enhancing the visibility of the EU and its contribution to this Action, the Commission may sign or enter into joint declarations or statements, as part of its prerogative of budget implementation and to safeguard the financial interests of the Union.

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.

With regards to the Neighbourhood East, all EU supported actions shall be aimed at increasing the awareness level of the target audiences on the connections, the outcome, and the final practical benefits for citizens of EU assistance provided in the framework of this Action. Visibility actions should also promote transparency and accountability on the use of funds.

Outreaching/awareness raising activities will play a crucial part in the implementation of the Action, in the case of budget support the national government shall ensure that the visibility of the EU contribution is given appropriate media coverage. The implementation of the communication activities shall be the responsibility of the implementing organisations, and shall be funded from the amounts allocated to the action.

Where relevant, the provisions of the Financial and Administrative Framework Agreement concluded between the European Union and the selected international organisations shall apply.

This Action will be communicated externally as part of a wider context of EU support to the country, and where relevant to the Eastern Partnership region in order to enhance the effectiveness of communication activities and to reduce fragmentation in the area of EU communication.

The implementing organisations shall coordinate all communication activities with EU Delegations as well as regional communication initiatives funded by the European Commission to the extent possible. All communication strategies developed as part of this action shall ensure they are in line with the priorities and objectives of regional communication initiatives supported by the European Commission and in line with the EU Delegation's communication strategy under the "EU4Georgia" umbrella initiative.

LIST OF APPENDICES

1. Performance indicators of the variable tranches
2. Disbursement arrangements and timetable
3. Communications and visibility activities

APPENDIX 1: PERFORMANCE INDICATORS OF THE VARIABLE TRANCHES

The performance indicators to be used for the disbursement of variable tranches are described hereafter. They will apply for the duration of the programme. However, in duly justified circumstances, the Government of Georgia, represented by the Ministry of Foreign Affairs, may submit a request to the Commission for the indicators or targets to be changed. The changes may be authorised by exchange of letters between the two parties.

Indicator no. 1	Number of households that have benefited from temporary extension of Targeted Social Assistance (TSA) for a period of 6 months in the course of 2020.
Policy	Beyond Covid-19 – The Anti-Crisis Economic Plan of the Government of Georgia
Objective	Reducing the negative effects of the loss of income, preserving jobs and supporting vulnerable groups
Department	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA)
Indicator type	Outcome
Measurement unit	Number of households
Calculation method	<p>This is a quantitative indicator. The number of households will be calculated based on the Proxy Means Testing (PMT) scoring formula. Households with a score between 65 001 and 100 000 who have benefited from temporary extension of Targeted Social Assistance will be counted.</p> <p>Full achievement: By 31 December 2020, 70 000 households which are part of the category 65 001 – 100 000 PMT scoring formula have benefited from temporary extension of Targeted Social Assistance on a monthly basis during a period of at least 6 months only since May 2020.</p> <p>Partial achievement: By 31 December 2020, 50 000 households which are part of the category 65 001 – 100 000 PMT scoring formula have benefited from temporary extension of Targeted Social Assistance on a monthly basis during a period of at least 6 months only since May 2020.</p>
Disaggregation	By number of households and by geographic area and by gender
Data collection method	Administrative collection
Measurement periodicity	Monthly
Department responsible	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA)
Delivery date	31 December 2020
Limitations and bias	Some households in need are still being excluded from this extended assistance. There may be some methodological errors in the calculation of the Proxy Means Testing (PMT) scoring formula.
Means of interpretation	The existing TSA covers extreme poor households based on a Proxy Means Testing (PMT) scoring formula. Extreme poor households are defined with a score less than 65 000. Through the indicator, the aim is to extend the programme and assist households with a score between 65001 and 100 000 that would normally not have been TSA beneficiaries. The benefit will be for a 6 months' period. The aim is to expand support to those households which are at risk to fall into the category of extreme poor.
Change in methodology	Not foreseen.
Baseline	<p>April 2020 – No households within the range of the 65 001 – 100 000 PMT scoring formula are benefiting from the Targeted Social Assistance programme.</p> <p>The political agreement on this indicator and corresponding target is set as April 2020 when the draft Action Document which is based on the Anti-Crisis Economic Plan of the Government of Georgia was discussed. This is evidenced by the letter from the Georgian Prime Minister to</p>

	Commissioner Várhelyi dated 30 April 2020. The final value will measure the technical achievement of the indicator agreed at the initial negotiation stage. The policy dialogue during the finalisation of the policy matrix will have ensured that the final target values are not already achieved at the moment of closing the negotiations.
Target	By 31 December 2020: 70 000 households which are part of the category 65 001 – 100 000 PMT scoring formula have benefited from temporary extension of Targeted Social Assistance on a monthly basis during a period of at least 6 months (only since May 2020).

Indicator no. 2	Number of companies that have retained jobs during the COVID-19 crisis period due to continued financial support from the Government of Georgia for a period of six months.
Policy	Beyond Covid-19 – The Anti-Crisis Economic Plan of the Government of Georgia
Objective	Reducing the negative effects of the loss of income, preserving jobs and supporting vulnerable groups
Department	Ministry of Finance of Georgia (MoF)
Indicator type	Output
Measurement unit	Number of companies having retained jobs during the COVID-19 crisis period supported.
Calculation method	<p>This is a quantitative indicator. It calculates the number of companies which have received a continued direct transfer for a period of 6 months from the State due to the fact that they have retained jobs during the initial COVID-19 crisis period.</p> <p>Full achievement: By 31 December 2020, 31,000 companies having retained jobs during the COVID-19 crisis period have received continued financial support from the Government of Georgia for a period of 6 months.</p> <p>No partial achievement target.</p>
Disaggregation	By size and number of companies and by amount of monthly transfer to companies (average amount of transfer per type of companies), as well as by number of jobs
Data collection method	Administrative collection
Measurement periodicity	Monthly over a period of 6 months
Department responsible	Ministry of Finance of Georgia (MoF).
Delivery date	31 December 2020.
Limitations and bias	It cannot be guaranteed that companies have retained their staff due to the financial support provided by the Government of Georgia but this support nevertheless facilitates their capacity to retain staff and improves their liquidity situation.
Means of interpretation	The indicator aims at preserving jobs and supporting businesses. It will measure the number of companies having received continued direct transfer from the State for a period of 6 months due to the fact that they have retained jobs during the COVID-19 crisis period.
Change in methodology	Not foreseen.
Baseline	<p>April 2020 – 0 companies have received a direct transfer from the State.</p> <p>The political agreement on this indicator and corresponding target is set as April 2020 when the draft Action Document which is based on the Anti-Crisis Economic Plan of the Government of Georgia was discussed. This is evidenced by the letter from the Georgian Prime Minister to Commissioner Várhelyi dated 30 April 2020. The final value will measure the technical achievement of the indicator agreed at the initial negotiation stage. The policy dialogue during the finalisation of the policy matrix will have ensured that the final target values are not already achieved at the moment of closing the negotiations.</p>

Target	By 31 December 2020: 31,000 companies having retained jobs during the COVID-19 crisis period have received continued financial support from the Government of Georgia for a period of 6 months.
Indicator no. 3	The number of Intensive Care Unit beds compared to January 2020.
Policy	Beyond Covid-19 – The Anti-Crisis Economic Plan of the Government of Georgia
Objective	Health system strengthening
Department	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs
Indicator type	Output
Measurement unit	Number of ICU beds.
Calculation method	<p>This is a quantitative indicator. The number of ICU beds on 1 January 2020 will be subtracted from the number of ICU beds on 31 December 2020.</p> <p>Data on ICU beds can be requested from the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA) and the National Centre for Disease Control and Public Health (NCDC). The Georgian definition of ICU bed will be used; reporting on the number of ICU beds will be based on the methodology commonly used by Georgian authorities prior to the COVID-19 crisis.</p> <p>Full achievement: By 31 December 2020, the number of Intensive Care Unit beds has increased by 150 beds compared to January 2020.</p> <p>Partial achievement: By 31 December 2020, the number of Intensive Care Unit beds has increased by 100 beds compared to January 2020.</p>
Disaggregation	Geographic regions can be considered for disaggregation. Data collection and reporting by regions can be obtained from the MoIDPLHSA and NCDC.
Data collection method	Data shall be reported by MoIDPLHSA and NCDC on the basis of administrative data collection from public health authorities (i.e. MoIDPLHSA and NCDC will collect data on ICU capacities from 297 hospitals across the country).
Measurement periodicity	Annual
Department responsible	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA) and National Centre for Disease Control and Public Health (NCDC)
Delivery date	31 December 2020
Limitations and bias	Until 2020, in Georgia the total number of ICU beds and emergency medicine beds together were referred to as ICU beds. Therefore, there are no historical data available for ICU beds separately. Since 2020, however, disaggregated data have been collected for ICU beds and emergency beds. Therefore, no methodological bias is assumed on this ground. It is assumed that both MoIDPLHSA and NCDC will be able to collect the relevant data and the hospitals will be able to accurately report data on ICU capacities.
Means of interpretation	ICU beds are often considered as indicator of quality of health care services. Health care systems may not provide optimal care to the critically ill because they lack sufficient number of ICU beds.
Change in methodology	Not foreseen.
Baseline	<p>1 January 2020 (i.e. pre-COVID-19 period): 1,297 ICU beds.</p> <p>The political agreement on this indicator and corresponding target is set as April 2020 when the draft Action Document which is based on the Anti-Crisis Economic Plan of the Government of Georgia was discussed. This is evidenced by the letter from the Georgian Prime Minister to Commissioner Várhelyi dated 30 April 2020. The final value will measure the technical achievement of the indicator agreed at the initial</p>

	negotiation stage. The policy dialogue during the finalisation of the policy matrix will have ensured that the final target values are not already achieved at the moment of closing the negotiations.
Target	By 31 December 2020: 150 additional Intensive Care Unit beds (compared to January 2020).

Indicator no. 4	The implementation of the COVID-19 Anti-Crisis Economic Plan of the GoG is audited by the State Audit Office
Policy	Beyond Covid-19 – The Anti-Crisis Economic Plan of the Government of Georgia
Objective	Ensure effectiveness and transparency of the COVID-19 Anti-Crisis Economic Plan of the Government of Georgia
Department	State Audit Office of Georgia (SAO)
Indicator type	Output
Measurement unit	Publication of the launch of the audits, together with summary description of methodology to be applied, and inclusion in the annual audit plan of SAO for 2021
Calculation method	<p>The full achievement of the target will incorporate the following elements:</p> <ul style="list-style-type: none"> • The State Audit Office commits to conduct a performance audit of at least one measure under the economic component of the COVID-19 Anti-Crisis Economic Plan implementation. • The State Audit Office commits to conduct a compliance audit of at least one measure under the healthcare component of the COVID-19 Anti-Crisis Economic Plan implementation. • The summary of the methodology for above mentioned audits is publicly available on the SAO website and through a Press Release and also reflected in the annual audit plan of the SAO for 2021. <p>No partial achievement target.</p> <p>The entire list of measures from where at least 1 measure per component should be selected for the above mentioned audits is the following:</p> <ul style="list-style-type: none"> • Economic component: <ul style="list-style-type: none"> - Credit-Guarantee Scheme. - Supporting SME access to financing by expanding existing mechanisms. - Automatic VAT Refund Reform. - Long term funding to commercial banks. - Micro and Small Grants' Program. - Agro credit Support. - Support to Farmers through Amelioration Fee Subsidy. - Tourism Sector Tax Relief. - Tourism Sector Support. • Healthcare component: <ul style="list-style-type: none"> - Case Detection and Confirmation. - Isolating Highest Risk Group People. - Health System Strengthening. - Patient Treatment and Case Management. - Reinforcing the Healthcare Sector.

Disaggregation	By government policy area or population groups
Data collection method	Administrative collection
Measurement periodicity	Annual
Department responsible	State Audit Office
Delivery date	31 December 2020
Limitations and bias	Some Supreme Audit Institutions (SAIs) may choose topics based on strategic considerations regarding the type of performance audit and reforms within the public sector. One possible strategic choice is to contribute to the modernisation of the government administration by focusing on auditing government programmes with significant performance problems. Other SAIs may choose topics based on other selection criteria, for example with regard to a specific type of public sector activity audit such as the hospital sector or larger investment projects. An alternative choice might be to simply focus on auditing individual government agencies and their performance towards meeting objectives and goals in relation to economy, efficiency and effectiveness (International Standards for Supreme Audit Institutions ISSAI 3200).
Means of interpretation	The indicator demonstrates the will of the authorities to be transparent and accountable towards the society and other (international) stakeholders in terms efficiency and effectiveness of public spending.
Change in methodology	Not foreseen.
Baseline	July 2020 – no audit of the COVID-19 Anti-Crisis Economic Plan of the GoG started.
Target	By 31 December 2020, the SAO announces publicly (publication on website and press release) the plan and summary of the methodology of the performance audit of at least one measure under the economic component and of the compliance audit of at least one measure under the healthcare component of the COVID-19 Anti-Crisis Economic Plan, and also reflects this in the annual audit plan of the SAO for 2021.

Indicator no. 5	Georgia is taking part in the pilot phase of the 5th round of monitoring under the OECD/Anti-Corruption Network (Istanbul Anti-Corruption Action Plan).
Policy	Anti-corruption strategy and Action Plan, Georgia is a member of the OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN), participates in the ACN peer review programme known as Istanbul Anti-Corruption Action Plan since it was launched in 2003.
Objective	Accountability and anti-corruption
Department	Intergovernmental Anti-Corruption Council (ACC); its secretariat is the Analytical Department of the Ministry of Justice
Indicator type	Process
Measurement unit	Official notification from the Government of Georgia confirming its participation in the pilot phase of ACN
Calculation method	Full achievement: The Government of Georgia officially notifies the ACN to confirm their participation in the first pilot by 31 December 2020. No partial achievement target.
Disaggregation	NA
Data collection method	Official letter from the Government of Georgia to the ACN.
Measurement periodicity	Annual
Department responsible	Secretariat of the Intergovernmental Anti-Corruption Council (ACC), Analytical Department of the Ministry of Justice
Delivery date	31 December 2020
Limitations and bias	Engagement to participate to the pilot phase does not preclude the results of the process.

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Means of interpretation	Measuring the confirmation and commitment that the GoG will participate in the 5 th round of monitoring under the OECD/Anti-Corruption Network (Istanbul Anti-Corruption Action Plan).
Change in methodology	Not foreseen
Baseline	2019 – no such pilot existed
Target	By 31 December 2020, the Government of Georgia officially notifies the ACN to confirm their participation in the first pilot.

APPENDIX 2: DISBURSEMENT ARRANGEMENTS AND TIMETABLE

1. Responsibilities

On the basis of the disbursement conditions stipulated in the Financing Agreement, the Government of Georgia, represented by the Ministry of Foreign Affairs, will send a formal request to the European Commission for the disbursement of each tranche in accordance with the timetable specified in Table A below. The request must include: (i) a full analysis and justification for payment of the funds, with the required supporting documents attached; (ii) a financial information form, duly signed, to facilitate the corresponding payment.

2. Indicative disbursement timetable

Table A: Indicative disbursement timetable in EUR million

Country fiscal year	2020				2021				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Type of tranche				60					60
Fixed tranche						15			15
Variable tranche				60		15			75
Total									

3. General conditions for the disbursement of all tranches

The general conditions set out in Table B shall apply to the disbursement of all tranches and all tranche release requests must be accompanied by all appropriate information and documents on the general conditions.

Table B: General conditions for the release of all tranches

Area	General conditions	Verification source
Public Policy	Satisfactory progress in the implementation of the Anti-Crisis Economic Plan and continued credibility and relevance of that or any successor strategy.	Government report on Anti-Crisis Economic Plan for 2020, UNDP Human Development Report for 2020
Macroeconomic stability	Maintenance of a credible and relevant stability-oriented macroeconomic policy or progress made towards restoring key balances.	IMF, WB, EU Reports for 2020
Public financial management	Satisfactory progress in the implementation of reforms to improve public financial management, including domestic revenue mobilisation, and continued relevance and credibility of the reform programme.	EU Delegation, PFM Annual Report for 2020
Budget Transparency	Satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budgetary information.	Open Budget Index, IMF, WB, EU Reports of 2020 and 2021

4. Modalities for variable tranche calculation and disbursement

The performance indicators set out in Table C and described in detail in annex 1 shall apply to the calculation of the share of variable tranches to be disbursed. Tranche release requests must be accompanied by all appropriate information and documents on the performance indicators.

Each performance indicator will be scored 1 if the target is fully met. The requirements for partial compliance are specified for each indicator in the indicator documentation sheet and in Table C. Partial compliance will trigger a disbursement of 50% of the amount allocated for each indicator.

Once each indicator has been assessed and a performance score has been attributed to each of them, the total amount of the variable tranche to be disbursed will be determined by adding up those scores according to the amount assigned to each indicator as per the indicator documentation sheet and Table C. The assessment of performance indicators may require carrying out external reviews or data verification exercises to inform disbursement decisions and to contribute to strengthening the policy monitoring framework and national statistical systems.

In exceptional and/or duly justified cases, e.g. where unexpected events, external shocks or changing circumstances have made the indicator or the target irrelevant, a variable tranche indicator may be waived or neutralised. In these cases, the related amount could either be reallocated to the other indicators of the variable tranche the same year or be transferred to the next variable tranche the following year. It could also be decided to re-assess an indicator the following year against the original target, if there was a positive trend and the authorities did not reach the target because of factors beyond their control. The use of these provisions must be requested by the Government of Georgia, represented by the Ministry of Foreign Affairs, to the Commission services and authorised by the latter through an exchange of letters between the two parties.

Once the disbursement has taken place, the funds corresponding to the share of the variable tranche which has not been disbursed will be de-committed.

Table C: Variable Tranche

COVID-19 Resilience Contract for Georgia	
First Variable Instalment Achievement: by 31 December 2020 Assessment: by 2 nd Quarter 2021	Weight
1 – Indicator: Number of households that have benefited from temporary extension of Targeted Social Assistance (TSA) for a period of 6 months in the course of 2020.	
Target: By 31 December 2020, 70 000 households which are part of the category 65 001 – 100 000 PMT scoring formula have benefited from temporary extension of Targeted Social Assistance on a monthly basis during a period of at least 6 months (only since May 2020).	EUR 4 million
Baseline: April 2020 – No households within the range of 65 001 – 100 000 PMT scoring formula are benefiting from the temporary extension of Targeted Social Assistance programme.	
Source of verification: Administrative data from the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA)	

COVID-19 Resilience Contract for Georgia	
First Variable Instalment Achievement: by 31 December 2020 Assessment: by 2 nd Quarter 2021	Weight
<u>Partial completion:</u> By 31 December 2020, 50 000 households which are part of the category 65 001 – 100 000 PMT scoring formula have benefited from temporary extension of Targeted Social Assistance on a monthly basis during a period of at least 6 months (only since May 2020).	
2 – Indicator: Number of companies that have retained jobs during the COVID-19 crisis period due to continued financial support from the Government of Georgia for a period of six months.	
<u>Target:</u> By 31 December 2020, 31,000 companies having retained jobs during the COVID-19 crisis period have received continued financial support from the Government of Georgia for a period of 6 months.	EUR 3 million
<u>Baseline:</u> April 2020 – 0 companies have received a direct transfer from the State.	
<u>Source of verification:</u> Administrative data from the Ministry of Ministry of Finance of Georgia (MoF).	
<u>Partial completion:</u> Not applicable.	
3 – Indicator: The number of Intensive Care Unit beds compared to January 2020.	
<u>Target:</u> By 31 December 2020, 150 additional Intensive Care Unit beds compared to January 2020.	EUR 3 million
<u>Baseline:</u> 1 January 2020 (i.e. pre-COVID-19 period): 1,297 ICU beds	
<u>Source of verification:</u> Administrative data from Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA) and National Centre for Disease Control and Public Health (NCDC).	
<u>Partial completion:</u> By 31 December 2020, 100 additional Intensive Care Unit beds compared to January 2020.	
4 – Indicator: The implementation of the COVID-19 Anti-Crisis Economic Plan of the GoG is audited by the State Audit Office.	
<u>Target:</u> By 31 December 2020, the SAO announces publicly (publication on website and press release) the plan and summary of the methodology of the performance audit of at least one measure under the economic component and of the compliance audit of at least one measure under the healthcare component of the COVID-19 Anti-Crisis Economic Plan, and also reflects this in the annual audit plan of the SAO for 2021.	EUR 2 million
<u>Baseline:</u> July 2020 – no audit of the COVID-19 Anti-Crisis Economic Plan of the GoG started	
<u>Source of verification:</u> Publication by the State Audit Office of the audit plan for 2021, announcement of website and press release of the planned audits and publication of the summary of the methodology to be applied.	
<u>Partial completion:</u> Not applicable.	

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5 – Indicator: Georgia is taking part in the pilot phase of the 5 th round of monitoring under the OECD/Anti-Corruption Network (Istanbul Anti-Corruption Action Plan).	
Target: By 31 December 2020, the Government of Georgia officially notifies the ACN to confirm their participation in the first pilot by 31 December 2020.	EUR 3 million
Baseline: 2019 – no such pilot existed	
Source of verification: Official letter from GoG to ACN.	
Partial completion: Not applicable.	

APPENDIX 3: COMMUNICATION AND VISIBILITY ACTIVITIES

These guidelines are in addition to, and expand upon measures identified in the Annex I, Technical and Administrative Provisions, Article 2.9 "Communication and visibility" and specify the following additions:

1. Objectives

The objectives of the communication activities for the programme are:

- to raise awareness and promote the EU's contribution to the Covid-19 – The Anti-Crisis Economic Plan of the Government of Georgia, inform beneficiaries and other stakeholders;
- to show the positive impact of the COVID-19 Resilience Contract for Georgia to the wider Georgian public;
- to promote the EU4Georgia brand in all communication activities of the current and previous actions supported by the European Union in this sector.

2. Visibility Guidelines

- All activities should be in line with Communication and Visibility Requirements for EU External Actions¹ as well as with the EU's Supplementary Visibility Guidelines for Georgia²;
- All visibility activities related to the programme should be consulted and agreed with the EU before proceeding.

3. Specific Visibility measures for the Programme

The partners agree to the following visibility actions in the course of the programme implementation:

- Development of a general communication plan for the programme;
- A high level event dedicated to the start of the programme;
- Success stories developed for significant achievements under the main programme;
- A high-level final summarizing event at the end of the programme.

The partners agree in principle that all measures used as indicators and their results can be referred to as being achieved by the Government of Georgia with the support of the European Union.

Final design and phrasing of the communication activities will be agreed with the EU during implementation. Costs for all events and campaigns in this annex will be covered by the EU through relevant visibility allocations.

¹ <https://ec.europa.eu/europeaid/note/17974>

² <http://eu4georgia.ge/visibility/>

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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.

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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 received¹
- 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 received²
- c. Letters to successful and unsuccessful applicants following concept note evaluation
- d. Concept note evaluation report

¹ Elimination of unsuccessful bids five years after the closure of the procurement procedure
² 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
- 1. 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 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

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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.

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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

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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

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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

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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

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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.