

# EUROPEAN UNION CONTRIBUTION AGREEMENT<sup>1</sup>

*Template to be used for Agreements signed through OPSYS/LCM Electronic Workflow (electronic signature)*

## SPECIAL CONDITIONS

### Article 1 - Purpose

- 1.1 The purpose of this Agreement is to provide a financial contribution to finance the implementation of the action referred to in the Main Conditions and described in Annex I (the “Action”). This Agreement establishes the rules for the implementation and for the payment of the EU Contribution, and defines the relations between the Organisation and the Contracting Authority.

For the purpose of this Agreement, the Organisation is considered as a **< please select one option from the following list:>** [Member State Organisation][International Organisation][Organisation assimilated to an International Organisation in accordance with the EU Financial Regulation][EU decentralised agency][Public law body (non-Member State Organisation)][Private law body (non-Member State Organisation)].

- 1.2 **Select one option:**

[The Action is fully financed by the EU Contribution.]

**or**

[The Action is a Multi-Donor Action and the EU Contribution [is] / [is not] earmarked.]

- 1.3 The Organisation declares that no substantial changes, which have not already been communicated to the Commission, affect the rules and procedures which have been [subject to the Ex-ante Pillar-Assessment] / [assessed by the European Commission for the purpose of an exemption to the obligation to undergo the Ex-ante Pillar Assessment<sup>2</sup>].

**As provided for in Article 2.2 of Annex II, in case Grants and/or Procurement Contracts will be awarded by the Organisation during the implementation of the Action, insert the following and select options accordingly:**

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

- [Apply its own rules and procedures for the award and management of Procurement Contracts which have been assessed [in the Ex-ante Pillar Assessment] / [by the European Commission for the purpose of an exemption to the obligation to undergo the Ex-ante Pillar Assessment] **If applicable, insert:** [, complemented with the ad-hoc measures laid down in Article 7]][, and]

<sup>1</sup> To be used in the context of standard Contribution Agreements including within a blending facility/platform when the Action does not involve a risk-sharing mechanism.

<sup>2</sup> Please note that in line with Article 157(7)(a) of the Financial Regulation, exempting (inter alia) an EU Decentralised Agency from the obligation to undergo a pillar-assessment is not subject to a specific decision to be taken by the Commission. However, while for EU Decentralised Agencies receiving contributions charged to the EU Budget, such exemption may take place simply upon confirmation that they have adopted rules with prior consent of the Commission, for EU Decentralised Agencies that are fully self-financed (i.e. the European Union Intellectual Property Office, Community Plant Variety Office and Single Resolution Board), the Commission must verify that their rules and procedures are aligned with those required by the Commission. Such verification is carried out at ‘corporate level’, under the responsibility of DG BUDG.

- [Apply its own rules and procedures for the award and management of Grants, which have been assessed [in the Ex-ante Pillar Assessment] / [by the European Commission for the purpose of an exemption to the obligation to undergo the Ex-ante Pillar Assessment] **If applicable, insert:**[, complemented with the ad-hoc measures laid down in Article 7]].]

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

1.5 **Select one:**

**For International Organisations, Member State Organisations and EU decentralised agencies that are exempted from the obligation to submit an audit opinion, which have established an arrangement to provide annually a global management declaration covering more than one Contribution Agreement/Contribution Agreement for Financial Instruments:**

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

**For International Organisations, Member State Organisations, and EU decentralised agencies, that are exempted from the obligation to submit an audit opinion, in all other cases:**

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

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

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

**For other organisations, in all other cases:**

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

[1.6 This Agreement is subject to the provisions of **<reference to any relevant financial framework partnership agreement between the European Commission and the Organisation >**.]

## **Article 2 - Entry into Force and Implementation Period**

### Entry into Force

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

### Implementation Period

2.2 The Implementation Period of the Agreement and the date on which it shall commence are indicated in Article 3 of the Main Conditions.<sup>3</sup> **In case an “indicative starting date” is inserted in Article 3 of the Main Conditions, please insert:** [In case such Article provides for an indicative starting date, the effective starting date shall be set in agreement with the Organisation and notified by the Contracting Authority.]

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<sup>3</sup> The starting date indicated in Article 3 of the Main Conditions can be the date on which the last Party signs, a specific fixed date, or an indicative date. In the latter case, the effective starting date will be set in agreement with the Organisation and notified by the Contracting Authority after the Contribution Agreement is signed. A specific fixed date may be set before the day on which the last Party signs (“retroactive” start date), if so stated in the Financing Decision or in other justified cases.

### Article 3 - Financing the Action

In case the total amount of the maximum EU Contribution to this Action, at the moment of signature of this Agreement, has already been booked against a valid global budgetary commitment by the Responsible Authorising Officer, or in case the Organisation does not wish to use the option corresponding to the Multi-Annual Financing Decision whose total amount is subject to the availability of EU funds, please insert:

In case the entire Action is financed by way of financing not linked to costs in accordance with Article 19 of Annex II insert the following Article 3.1:

[3.1 The Contracting Authority undertakes to provide a contribution up to the maximum amount indicated in Article 2 of the Main Conditions (the “EU Contribution”).

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

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

[3.1 The total cost of the Action<sup>4</sup> is estimated at EUR <insert amount>, as set out in Annex III. The Contracting Authority undertakes to provide a contribution up to the maximum amount indicated in Article 2 of the Main Conditions (the “EU Contribution”).

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

In case the present Agreement is concluded based on a multiannual Financing Decision whose total amount is subject to availability of EU funds (i.e., where EU budget appropriations from year N plus N+1 (plus N+2) (N+3, etc.) are used) and the total amount of the maximum EU Contribution to this Action, at the moment of signature of this Agreement, has not yet been booked against a valid global budgetary commitment by the Responsible Authorising Officer, please insert, in agreement with the Organisation:

In case the entire Action is financed by way of financing not linked to costs in accordance with Article 19 of Annex II insert the following Article 3.1:

[3.1 The Contracting Authority undertakes to provide a contribution up to a maximum estimated amount of EUR <insert amount> (the “EU Contribution”), for the entire duration of the implementation of this Action and until the End Date.

The maximum available EU Contribution to this Action is indicated in Article 2 of the Main Conditions. Such amount shall be increased subject to availability of funds, as indicatively planned below:

Planned increase(s):	Amount of the planned increase(s) in EUR:
1	<amount>
<2>	<amount>

<sup>4</sup> This amount is introduced only for indicative purposes. It is an estimate and its evolution does not condition the EU Contribution.

<3>	<amount>
...	...
<b>TOTAL</b> (excluding the maximum available EU Contribution to this Action) <sup>5</sup>	<amount>

The Organisation acknowledges that should part or all of the forecasted amount of increase(s) detailed above not be made available, this Agreement, including its activities described in Annex I, and Annex III, shall be amended.

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

In all other cases insert the following Articles 3.1:

[3.1 The total cost of the Action<sup>6</sup> is estimated at EUR <insert amount>, as set out in Annex III.

The Contracting Authority undertakes to provide a contribution up to a maximum estimated amount of EUR <insert amount> (the “EU Contribution”), for the entire duration of the implementation of this Action and until the End Date.

The maximum available EU Contribution to this Action is indicated in Article 2 of the Main Conditions. Such amount shall be increased subject to availability of funds, as indicatively planned below:

Planned increase(s):	Amount of the planned increase(s) in EUR:
1	<amount>
<2>	<amount>
<3>	<amount>
...	...
<b>TOTAL</b> (excluding the maximum available EU Contribution to this Action) <sup>7</sup>	<amount>

The Organisation acknowledges that should part or all of the forecasted amount of increase(s) detailed above not be made available, this Agreement, including its activities described in Annex I, and Annex III, shall be amended.

<sup>5</sup> Please note that the “the maximum available EU contribution to this Action” refers to the amount of funds that has already been booked against a valid global budgetary commitment by the Responsible Authorising Officer, which is mentioned in Article 3.1.

<sup>6</sup> This amount is introduced only for indicative purposes. It is an estimate and its evolution does not condition the EU Contribution.

<sup>7</sup> Please note that the “the maximum available EU contribution to this Action” refers to the amount of funds that has already been booked against a valid global budgetary commitment by the Responsible Authorising Officer, which is mentioned in Article 3.1.

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

## Remuneration

### 3.2 Select one out of the three options:

**For Contribution Agreements outside blending facilities/platforms:**

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

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

[By way of derogation from Article 16.4 of Annex II, the Organisation, in its capacity as lead finance institution, shall be entitled to a remuneration<sup>8</sup> of an amount of EUR **<xxx> the amount indicated here are indicative and must be calculated by using the methodology detailed under footnote 8 (as numbered in the present template) and on the basis of the estimated amount of total eligible direct costs to be reimbursed by the Contracting Authority** for the management and administration of the EU Contribution. This remuneration does not need to be supported by accounting documents.

**In case the present Agreement is concluded based on a multiannual Financing Decision (i.e., where EU budget appropriations from year N plus N+1 (plus N+2) (N+3, etc.) are used) and the total amount of the maximum EU Contribution to this Action, at the moment of signature of this**

<sup>8</sup> Excluding the cases of early termination described in the last sentence of Article 3.2 of the Special Conditions, the final amount of remuneration shall be calculated as follows:

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

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

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

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

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

Agreement, has not yet been booked against a valid global budgetary commitment by the Responsible Authorising Officer, please insert the following:

[The final amount of the remuneration will be established by the Contracting Authority in accordance with these Special Conditions and with Articles 16 to 18 of Annex II. However, in case of termination pursuant to Article 12.3 of Annex II, if the total eligible direct costs to be reimbursed by the Contracting Authority do not exceed 30% of the total estimated eligible direct costs to be reimbursed by the Contracting Authority<sup>9</sup>, the Organisation shall be entitled to a minimum remuneration. The amount of this minimum remuneration shall be determined based on the activities carried out by the Organisation until the termination takes effect, up to the limit of 30% of the remuneration<sup>10</sup>.]

In cases other than the above, insert:

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

#### Interest on pre-financing

##### 3.3 Select one out of the two options:

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

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

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

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

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

## Article 4 - Payment Arrangements and Reporting

### 4.1 The pre-financing rate is <...>%.<sup>11</sup>

<sup>9</sup> The 'total estimated eligible costs' shall be equal to the maximum available EU Contribution to this Action on the day the termination becomes effective, minus the remuneration calculated by applying the methodology detailed in footnote <insert the correct number of the footnote> of these Special Conditions based on the maximum available EU Contribution to this Action on the day the termination becomes effective.

<sup>10</sup> The limit of 30% shall be applied to the amount of remuneration calculated by applying the methodology detailed in footnote <insert the correct number of the footnote> of these Special Conditions based on the maximum available EU Contribution to this Action on the day the termination becomes effective.

<sup>11</sup> The Parties have to agree on a pre-financing rate (X%). The determination of the amount of the pre-financing instalments corresponds to X% of the part of the forecast budget for the following reporting period of the Action which is being financed by the EU (excluding not authorised contingencies). Subject to the provisions of Article 17 of Annex II, each further instalment of pre-financing will thus consist of the remaining part of the budget financed by the EU for the previous period (where pre-financing rate is less than 100%) and the new pre-financing for the forecast budget for the

- 4.2 Payments shall be made in accordance with Article 17 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:

#### First option

First pre-financing instalment:<sup>12</sup> EUR <amount>

[Further pre-financing instalment(s): EUR <amount > following the end of the <1<sup>st</sup>, 2<sup>nd</sup>, etc. reporting period, from date to date ><sup>13</sup> corresponding to the Contracting Authority's part of the forecast budget for the subsequent <x> months.]

[Forecast balance of the final amount of the EU Contribution, if any (subject to the provisions of Annex II): EUR <amount>.]

#### Second option<sup>14</sup>

[First pre-financing instalment<sup>15</sup> .....EUR<amount>

Second pre-financing instalment.....EUR<amount>

Third pre-financing instalment.....EUR<amount>

<add as many instalments as years>

Forecast balance<sup>16</sup> .....EUR<amount>]

These amounts are indicative and subject to modification in accordance with the provisions of Article 17 of Annex II.]

Insert, if needed in accordance with Article 3.4 of Annex II:

4.x <Specify the applicable reporting requirements and length of reporting period, etc.>

In case of financing not linked to costs, insert

4.x <additional or differing reporting and payment arrangements for financing not linked to costs>

Delete Article 4.1 and 4.2 above if the entire Action is financed by way of financing not linked to costs in accordance with Article 19 of Annex II.

In case of a Multi-Donor Action where the EU Contribution is earmarked, insert:

[4.x The information required as per Articles 3.7 f), 3.8 b) and c) of Annex II has to be included only for the part of the Action financed by the EU Contribution.]

## Article 5 – Communication language and contacts

- 5.1 All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in <specify the language<sup>17</sup>>. [If requested by

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subsequent 12 months, the latter at the pre-financing rate stated in Article 4.1. In the case of blending facilities/platforms, it is always 100%.

<sup>12</sup> For Contribution Agreements within blending facilities/platforms [The first pre-financing instalment includes 100% of the remuneration mentioned under Article 3.2]

<sup>13</sup> Unless otherwise provided for in the Special Conditions, the reporting period is every twelve (12) months as from the commencement of the Implementation Period.

<sup>14</sup> This option can be used if there is a high level of certainty as regards the amounts of the further pre-financing instalments.

<sup>15</sup> For Contribution Agreements within blending facilities/platforms [The first pre-financing instalment includes 100% of the remuneration mentioned under Article 3.2.]

<sup>16</sup> The forecast balance (final payment), if any, is the difference between the total amount of the EU Contribution and the sum of the previous instalments.

<sup>17</sup> EN, FR, ES or PT.



the Contracting Authority, and in cases where the language of the Agreement is not English or French, communications shall be accompanied by a translation or a summary in English or French.]

- 5.2 Subject to Articles 2.11, 3.1 and 10 of Annex II, any communication relating to the Agreement shall be in writing, shall state the Contracting Authority's contract number and the title of the Action, and shall be dispatched to the addresses below:

For the Contracting Authority

European Commission

<Directorate-General for *insert responsible DG*>

For the attention of <address of the finance unit/section>

Copies of the documents referred to above, and correspondence of any other nature, shall be sent to:

European Commission

< Directorate-General for *insert responsible DG*>

For the attention of <address of the management unit/section>]

For the Organisation

<address of the Organisation for correspondence>

- 5.3 Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.
- 5.4 The contact point within the Organisation, which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be: <complete OLAF contact point within the Organisation>.
- 5.5 All exchanges concerning the Early Detection and Exclusion System shall take place between the Contracting Authority and the authorised person designated by the Organisation, which is:

<Insert here the contact of the designated person or the contact of the liaison point if there is one>

## Article 6 - Annexes

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

Annex I: Description of the Action (including the Logical Framework of the Action)

Annex II: General Conditions for Contribution Agreements

Annex III: Budget for the Action<sup>18</sup>

Annex IV: Standard Request for Payment<sup>19</sup>

[Annex V: Management Declaration template] This annex is not needed when there is an arrangement to provide annually a global Management Declaration (in which case the Organisation shall download the applicable template available at: [https://ec.europa.eu/international-partnerships/working-partner-organisations\\_en](https://ec.europa.eu/international-partnerships/working-partner-organisations_en)).

[Annex VI: <Any other annex that may be deemed necessary by the Contracting Authority>]

<sup>18</sup> As there is no standard template for the Budget (except where the Organisation responds to a call for proposals), there is room for discussion on what constitutes a budget heading. In order to avoid disputes at a later point, this should be clarified between the Contracting Authority and the Organisation when an agreement is being signed, as a footnote or explanatory note in Annex III.

<sup>19</sup> Subject to Article 2.11 of Annex II.



- 6.2 In the event of a conflict between the Main Conditions and these Special Conditions, the provisions of the Main Conditions shall take precedence. In the event of a conflict between these Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex II and those of the other Annexes, the provisions of Annex II shall take precedence.

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

## **Article 7 – Additional specific conditions applying to the Action<sup>20</sup>**

7.1 The following shall supplement Annex II:

For any supervisory measures resulting from the Ex-Ante Pillar Assessment or exemption ( :

7.1.1 Pursuant to Article 2 of Annex II the Organisation shall apply the following ad hoc measures:

< insert ad hoc measures>.

For costs of a project office<sup>21</sup>:

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

- a) They comply with the cost eligibility criteria referred to in Article 16.1 of Annex II;
- b) They fall within one of the following categories:
  - i) costs of staff, including administration and management staff, directly assigned to the operations of the project office. The tasks listed in the Description of the Action (Annex I), undertaken by staff assigned to the project office will be directly attributable to the implementation of the Action.
  - ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the project office;
  - iii) depreciation costs, rental costs or lease of equipment and assets composing the project office.
  - iv) costs of maintenance and repair contracts specifically awarded for the operations of the project office;
  - v) costs of consumables and supplies specifically purchased for the operations of the project office;
  - vi) costs of IT and telecommunication services specifically purchased for the operations of the project office;
  - vii) costs of energy and water specifically supplied for the operations of the project office;
  - viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of the project office;
- c) Where costs of the project office are declared as actual costs, the Organisation may declare as eligible only the portion of the capitalised and operating costs of project office that corresponds to the duration of the Action and the rate of actual use of the project office for the purposes of the Action.
- d) Costs of the project office not declared as actual costs are only eligible if they have been ex ante-assessed by the European Commission.

<sup>20</sup> With the view of ensuring consistency, any supplementary or derogation provisions not mentioned in this template shall be treated in the following manner: For EU Internal Policies, DG BUDG D2 shall be informed by the relevant service, for EU External Actions, DG INTPA R4 or DG NEAR R2, as applicable, and for CFSP, FPI 1 shall be consulted.

<sup>21</sup> To be inserted where the specific action requires it. Depending on the usual costing practices of the Organisation, only part of the list of cost categories may be included.

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

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

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

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

In case the Organisation has not concluded a special arrangement with the Commission (for example, through a financial framework partnership agreement) on the respect of EU restrictive measures, please insert the clauses below.

[7.1.X The following shall supplement Annex II:

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

EU Restrictive Measures: restrictive measures adopted pursuant to the Treaty on European Union (TEU) or to the Treaty on the Functioning of the European Union (TFEU).

Restricted Person: any entities, individuals or groups of individuals designated by the EU as subject to the EU Restrictive Measures<sup>22</sup>.

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

2.14

(a) In their contractual relationship the Parties recognise that under EU law no EU funds or economic resources are to be made available directly or indirectly to, or for the benefit of, Restricted Persons.

(b) The Organisation shall ensure that no transaction subject to a verified hit against the EU sanctions list shall benefit directly or indirectly from EU funding. The Organisation commits to ensure this i) through screening for hits against EU sanctions before any direct contracts it concludes and ii) at subsequent levels through the Organisation's risk based due diligence.

The Organisation will implement this obligation through the following measures:

(i) The Organisation shall screen for hits against the EU sanctions list, before entering into, and before making payments under, the relevant agreements, each Contractor and Grant Beneficiary with whom the Organisation has or is expected to have a direct contractual relationship, so as to assess whether such recipient is a Restricted Person.

(ii) The Organisation shall ensure, through screening or through other appropriate means (that may include an ex-post verification) on a risk based approach basis, that no entity that has or is expected to have a direct contractual relationship with a Grant Beneficiary in relation to the implementation of the Action and that would receive EU funding ("Indirect Recipient"), is a Restricted Person.

(c) In the event that the Organisation assesses that any of the recipients of the EU funding referred to in subparagraphs (b)(i) and (b)(ii) is a Restricted Person, and the Organisation decides that the transaction should proceed notwithstanding a verified hit against EU sanctions, the

<sup>22</sup> Consolidated list (the "EU sanctions list") presently available at <https://data.europa.eu/euodp/en/data/dataset/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions>. Note that the EU Official Journal is the official source of EU law and, in case of conflict, its content prevails.

Organisation shall promptly inform the Contracting Authority. Should the Contracting Authority consider that the use of the EU funding in connection with the Agreement would result in a breach of the EU Restrictive Measures, the Contracting Authority shall notify the Organisation within twenty-five (25) Days of the date of the receipt of the Organisation's notice pursuant to the immediately preceding sentence. If the Contracting Authority does not notify the Organisation pursuant to this subparagraph, the Contracting Authority shall be deemed to have no objection.

- (d) If the Contracting Authority notifies the Organisation pursuant to the immediately preceding subparagraph, the Organisation and the Contracting Authority shall promptly consult each other with a view to jointly determining remedial measures in accordance with their respective applicable legal frameworks. These measures may include, but shall not be limited to: (A) the reallocation of the relevant portion of the EU funding net of any costs incurred by the Organisation for undertaking any procurement or award procedure unless in case of the Organisation's gross negligence or wilful misconduct; (B) recovery by the Contracting Authority from the Organisation of the amount of the EU funding provided directly or indirectly for the benefit of a recipient referred to in subparagraphs (b)(i) and b)(ii) that is a Restricted Person under the Agreement. Where appropriate, a combination of remedial measures may be applied. Where remedial measures cannot be agreed or if the Organisation nonetheless decides to proceed with a transaction, the corresponding amount shall not be charged (including through the application of the notional approach) to (i) the Action where the Action is exclusively financed by the EU, or in case the Action is Multi-Donor and the maximum EU Contribution is expressed as a percentage of total eligible costs of the Action; or (ii) to the EU Contribution in all other cases. This is without prejudice to any rights that the Contracting Authority may have to suspend or terminate this Agreement or to recover any EU funding contributed by the Contracting Authority to the Organisation.
- (e) The determination of remedial measures will be made in accordance with the principle of proportionality. Remedial measures shall apply only to the EU funding made available to, or for the benefit of, a recipient referred to in subparagraphs (b)(i) and (b)(ii) for the period during which it remained a Restricted Person.
- (f) For the avoidance of doubt, the Parties acknowledge that if a recipient of the EU funding becomes a Restricted Person after the date on which such EU funding was made available to, or for the benefit of, such recipient, subparagraphs (c) and (d) shall not apply to the EU funding made available to, or for the benefit of, the Restricted Person before its listing.
- (g) Preceding subparagraphs (a) to (f) are without prejudice to the exceptions contained in the EU Restrictive Measures.
- (h) The Contracting Authority will not intervene in the Organisation's processes for selecting and engaging with recipients in full respect of the Organisation's Regulations and Rules.]

**7.1.x Multi-Donor Actions, where the EU contribution is not earmarked (see Article 1.2 of these Special Conditions), with donors other than the Contracting Authority and the Organisation, and with an implementation period of the Action that is shorter than the implementation period of the overall action, choose one of the two options:**

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

- **where surplus is used for another agreed purpose:** [The Organisation shall submit the final report(s) of the overall action referred to in Article 3.3 of Annex II to the Contracting Authority once available.

In the event of a final surplus balance of total financing over expenditures at the end of the overall action, the Organisation shall specify in the final report(s) of the overall action the amount of the surplus balance. The surplus balance shall be treated as follows: <insert the details of the treatment e.g. surplus will be used for similar action and under what conditions>.]

Multi-Donor Actions, where the EU contribution is not earmarked (see Article 1.2 of these Special Conditions), with donors other than the Contracting Authority and the Organisation, and the implementation period of the Action is equal to the implementation period of the overall action, choose one of the two options:

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

- where surplus is used for another agreed purpose: [The following shall supplement this Agreement: In the event of a final surplus balance of total financing over expenditures at the end of the Action (including its closure), the Organisation shall specify in the final report the amount of the surplus balance. The surplus balance shall be treated as follows: <insert the details of the treatment e.g. surplus will be used for similar action and under what conditions>.]

If needed insert additional supplementary conditions:

7.1.x

7.2 The following derogations from Annex II shall apply:

If the Organisation wishes to receive the first pre-financing instalment later than within thirty (30) Days of the Contracting Authority receiving the signed Agreement provided for in Article 17.1(a) of Annex II (but not before the start of the implementation period), insert:

[7.2.x By derogation from Article 17.1(a) of Annex II, the Contracting Authority shall provide the first pre-financing instalment, as set out in Article 4.1 of these Special Conditions, within thirty (30) Days of receiving a payment request from the Organisation. The Organisation shall not send such payment request before the effective starting date of the Implementation Period].

If needed for Contribution Agreements within blending facilities insert:

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

In case the contribution agreement is concluded with a decentralised agency and the latter can benefit from an exemption from the obligation to submit an audit opinion in accordance with Article 3.11 of Annex II, please insert<sup>23</sup>:

7.2.x Article 3.10 of Annex II is replaced by the following:

***‘Audit or control opinion for organisations other than International Organisations/decentralised agencies/Member State Organisations***

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<sup>23</sup> The decision to exempt a decentralised agency from the obligation to submit an audit opinion is to be taken compliant with note Ares(2024)7127247, which sets several conditions to be fulfilled.

*In case the Organisation is neither an International Organisation nor a decentralised agency nor a Member State Organisation, the Organisation shall provide an audit or control opinion in accordance with internationally accepted audit standards, establishing whether the accounts give a true and fair view, whether the control systems in place function properly, and whether the underlying transactions are managed in accordance with the provisions of this Agreement. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration mentioned above.'*

If needed, insert additional derogation conditions:

7.2.x By derogation from Article <insert derogation>

7.3 The following shall apply to this Agreement:

Where the corresponding Financing Decision provides for specific conditions to protect the security and the public order of the Union and/or its Members States pursuant to Article 136 of the EU Financial Regulation (please note that depending on such conditions other supplementary (Article 7.1) and/or derogatory conditions (Article 7.2) might be needed):

[7.3.x <insert relevant specific conditions>]