

## **ANNEX II**

### **GENERAL CONDITIONS APPLICABLE TO GRANT CONTRACTS**

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## **GENERAL AND ADMINISTRATIVE PROVISIONS**

### **ARTICLE 1: GENERAL PROVISIONS**

#### **General principles & terminology**

- 1.1. The Beneficiary and Expertise France are the only parties to this Contract. In particular, whether they are a state, international organisation or non-governmental organisation, the Contract only confers expressly stipulated rights and obligations on the latter.
- 1.2. Where the co-contracting party is composed of a Partnership, the Lead Applicant becomes Beneficiary as set out in the special conditions of the Contract.
- 1.3. The following definitions apply to the Contract:
  - The term “Party” or “Parties” means the signatory party or parties hereto, namely the Beneficiary and/or Expertise France;
  - The term “Beneficiary” means the beneficiary of the grant;
  - The term “Grant” means the donation of a sum of money made available by Expertise France to the Beneficiary, in the maximum amount stipulated in this Contract;
  - The term “Partner(s)” means the entities participating in implementation of the Project, in the context of a partnership with the Beneficiary, whereby the costs incurred by such Partner(s) are eligible in the same manner as those incurred by the Beneficiary.
  - The term “Project” means the activity financed by the Grant.
  - Regarding operating grants, the term “Project” means the “work programme”;
  - The term “programme” refers to all funded components constituting the intervention funded by the Grant;
  - The term “Implementation Period” means the period during which the Project takes place, the duration of which is set out in Article 2 of the special conditions and is subject to the deferral and suspension conditions set out in the Contract.
  - Subsequent to the Implementation Period, the “Closing Period” is the period during which the final reports are submitted in accordance with Article 14 of the Contract;
  - The term “Donor” means the entity providing Expertise France with Project financing;

- All references to a number of days in the Contract means calendar days, unless specified otherwise.

1.4. The Contract and the resultant payments may not be assigned to a third party in any manner whatsoever without prior written authorisation from Expertise France.

#### Role of the Beneficiary

1.5. The Beneficiary:

- a) shall be individually responsible vis-à-vis Expertise France for implementation of the Project and shall take all necessary and reasonable measures to ensure that the Project is implemented in accordance with the Project description set out in Annex I and with the stipulations hereof;
- b) shall, to this end, implement the Project with all due care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the current best practices and standards applicable to the field;
- c) shall comply with the principles of sound financial management, transparency and non-discrimination during implementation of the Project;
- d) shall assume individual responsibility for all its obligations hereunder;
- e) shall produce the reports, financial statements and all other information or documents required under the Contract and its appendices, in addition to all other information required for the purposes of audit, control, monitoring or evaluation, as set out in Article 16 of these general conditions;
- f) shall ensure that all information or requests to be forwarded to Expertise France are provided within the stated period;
- g) shall establish the internal agreements required for its internal coordination and representation vis-a-vis Expertise France for all matters relating to the Contract, in compliance with the provisions hereof and with all applicable legislation;
- h) shall obtain, without undue delay, and shall comply with and take all necessary steps to maintain the validity of, all authorisations required under applicable laws or regulations such that it is able to perform its obligations hereunder, or to ensure the legality, validity, enforceability or admissibility as evidence of said authorisations;
- i) shall maintain the Project's assets in compliance with applicable laws and regulations such that they remain in good operating condition and undertakes to use said assets in compliance with their intended use and with all applicable laws and regulations;
- j) shall retain all original documentation relating to the Project and its financing and hold it available for consultation by Expertise France and, as applicable, by any Donor for a

minimum period of ten years, commencing on the date of the last payment made by Expertise France;

- 1.6. Where the Beneficiary conducts a Project with Partners, in the context of its operational obligations, the Beneficiary:
- a) shall verify that the Project is implemented in compliance with the Contract and shall effectively coordinate with all Partners in the context of said implementation;
  - b) shall act as intermediary for all communications between the Partners and Expertise France;
  - c) shall be responsible for forwarding to Expertise France all documents and information required under the Contract, notably in relation to narrative reports and payment demands. Where information is required from Partners, the Beneficiary is responsible for obtaining, verifying and collating said information prior to it being forwarded to Expertise France.
  - d) the forwarding of all information and requests by the Beneficiary to Expertise France shall be deemed to have been conducted with the agreement of all Partners;
  - e) shall notify Expertise France of any circumstance likely to affect or delay implementation of the Project;
  - f) shall notify Expertise France of any legal, financial, technical or organisational change affecting the Partners, or any change of control thereof, in addition to any transaction that may have a direct or indirect impact on said status, including any change of name, address or legal representative;
  - g) shall be responsible in the context of any audit, control, monitoring or evaluation set out in Article 16 of these general conditions for providing all required documents, notably Partners' accounts, copies of the most important supporting documentation and signed copies of any contract entered into in accordance with Article 10 of these general conditions;
  - h) shall assume full financial liability for the proper implementation of the Project in compliance with the Contract;
  - i) shall take all necessary steps to provide the financial guarantee, if requested, in accordance with Article 4 of the special conditions;
  - j) shall issue payment demands in compliance with the Contract;
  - k) shall be the sole recipient on behalf of all Partners of the payments made by Expertise France. The Beneficiary shall then pay, without undue delay, the amounts due to each Partner.
  - l) shall not delegate any of the aforementioned functions, whether in whole or in part, to

any Partner or other entity.

## ARTICLE 2: PRESENTATION OF FINANCIAL AND NARRATIVE REPORTS

2.1. In the context of such reports, the Beneficiary shall provide Expertise France with all required information on the implementation of the Project. The reports shall describe the implementation of the Project in accordance with the planned activities, in addition to any difficulties encountered and corrective measures, any changes introduced and the level of progress against anticipated results (impact, results or outputs) as measured by the corresponding indicators. The reports shall be structured in such a way as to enable monitoring of the objectives, the resources planned or employed and the details of the Project budget. The level of detail in any given report must match that contained in the Project description and budget. The Beneficiary shall collate all necessary information and draw up consolidated interim reports.

These reports shall:

- a) cover the Project as a whole, regardless of which part is funded by Expertise France, with the exception of Projects financed by the Initiative, for which the financial reports must cover the scope of financing provided by Expertise France;
- b) contain a detailed breakdown of expenditure providing the following information for each cost heading in the financial report and for all underlying entries and transactions: amount of the entry or transaction, accounting reference (e.g. ledger, journal or other relevant reference), description of the entry or transaction (detailing the nature of the expenditure) and reference to supporting documentation (e.g. invoice number, pay slip or other relevant reference), in accordance with Article 16.1 of these general conditions. Wherever possible, it shall be provided in electronic and spreadsheet format (Excel or similar).
- c) consist of a narrative and a financial report (containing a breakdown of expenditure) and be drafted in line with the models provided in Annex VI of the Contract;
- d) provide a full account of all aspects of the Project's implementation for the period under review;
- e) include the current results in an up-to-date table based on the Project's logical framework matrix, incorporating the results achieved by the Project (impact, outputs and results) in line with measurable indicators, in addition to the defined baselines and objectives and pertinent verification sources;
- f) determine if the reasons for intervention are still valid and propose all relevant modification, including in terms of the Project's logical framework matrix;
- g) be drafted in the currency and language of the Contract;

- h) include any updates to the communications plan as provided for in Article 6 of these general conditions;
  - i) include any relevant reports, publications, press releases and updates relating to the Project;
  - j) contain a sworn declaration from the Beneficiary stating that the information in its report is complete, reliable and true, and that the costs declared have been incurred and can be treated as eligible in accordance with the Contract.
- 2.2. The interim narrative and financial reports shall cover a 6-month Implementation Period and be forwarded to Expertise France within sixty (60) days of the end of the period concerned. If it is unable to provide an interim period within deadline, the Beneficiary shall notify Expertise France of the reasons (which may agree to extend the deadline) and shall provide a summary of Project progress (it should be noted that the Project progress summary does not establish entitlement to the next pre-financing payment).
- 2.3. The final report must be forwarded to Expertise France within ninety (90) days of the end of the Project Implementation Period. The final report shall cover the entire Implementation Period and include, in addition to the information required for interim reports:
  - a) a summary of the Project's receipts, payments received and eligible costs incurred;
  - b) as applicable, an overview of all funds unduly paid or used inappropriately that the Beneficiary has (or has not) been able to recover;
  - c) evidence of transfer of ownership as set out in Article 7 of these general conditions;
  - d) for Projects funded by multiple Donors and where the contribution from Expertise France is not affected, confirmation that an amount corresponding to that paid by Expertise France has been used in accordance with the obligations set out in the Contract, and that the costs not eligible for the Expertise France contribution have been covered by the contributions of other Donors;
  - e) a detailed breakdown of expenditure covering the whole Project (apart from projects financed by the Initiative, for which the final report shall only cover the Project financed by Expertise France).
- 2.4. Expertise France may request additional information at any time, which shall be provided by the Beneficiary within thirty (30) days of the request (unless a shorter period is specified in the request) and in the language of the Contract. Where the overall duration of the Programme is longer than the Contract Implementation Period, Expertise France may demand – in addition to the final report provided for in Article 2.2 of these general conditions – the final reports of the Programme as soon as they become available.
- 2.5. The reports shall be submitted in accordance with the schedule set out in Article 4 of the special

conditions, with Article 15 of these General Conditions and, as applicable, with the requirements of the payment requests. Should the Beneficiary fail to provide any report referred to in this Article 2 or fail to provide any additional information requested by Expertise France within the specified deadline without acceptable and written explanation of the reasons for said failure, Expertise France may terminate the Contract in accordance with Article 12 of these general conditions.

- 2.6. In the case of funding provided by a Donor, Expertise France reserves the right to demand that the financial reports provided by the Beneficiary are accompanied by account statements issued by the bank for the period under review.
- 2.7. In addition to these reports, the Beneficiary shall forward to Expertise France on 31 January each year an expenditure report as at 31 December in line with the model appended in Annex VI “Model simplified report as at 31 January”.
- 2.8. In the event of funding being provided by a Donor, the Beneficiary explicitly authorises Expertise France to forward to said Donor all the documents referred to in the preceding articles.
- 2.9. The narrative and financial reports shall be forwarded electronically in Word and Excel format.

### **ARTICLE 3: LIABILITY**

- 3.1. Expertise France and the Donor may not under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary or its Partners during the design, implementation or as a consequence of the Project. Expertise France or, as applicable, the Donor cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
- 3.2. The Beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by such parties while the Project is being carried out or as a consequence thereof.
- 3.3. The Beneficiary shall discharge Expertise France from all liability arising from any claim or action brought as a result of any infringement of rules or regulations committed by it, its employees or individuals for whom it is responsible, or as a result of violation of third-party rights. For the purposes of this Article 3, employees of the Beneficiary shall be treated as third parties.
- 3.4. The Beneficiary undertakes to comply with all applicable rules, laws and regulations relating to safety and to meet all its obligations in order to ensure the safety of its personnel, for whom it is solely responsible.
- 3.5. Expertise France is not responsible for the safety of natural persons or the personnel of legal entities to which the Beneficiary may entrust or delegate, in any manner whatsoever, all or part of Project implementation.



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- 3.6. Throughout implementation of the Project and prior to any related travel by its personnel, the Beneficiary undertakes to establish, via the French Embassy<sup>1</sup> of the country in question, which security risks said personnel is likely to face and to act on the advice provided by the departments of the embassy. The Beneficiary undertakes to ensure that natural persons and legal entities acting on its behalf during Project implementation comply with the aforementioned obligations.
- 3.7. The Beneficiary is solely responsible for any decision to maintain or cancel planned travel after receiving such information and recommendations.
- 3.8. The Beneficiary shall take out, and maintain at its own expense, third-party and professional liability insurance policies covering the physical injury and material and consequential damage that may arise from Project implementation. It shall also take out, and maintain at its own expense, insurance policies covering its working accident and occupational illness liability with regard to its agents assigned to Project implementation. On request, it shall provide a third-party and professional liability insurance certificate specifying the nature and amount of cover. It shall be directly responsible for all taxes and duties that may be levied against it under the Contract, both in the country of its registered office and in those of project implementation. It shall insure the assets financed via the Grant against the main risks to which the implementation and operation of the Project may be exposed.

## **ARTICLE 4: INTEGRITY, ANTI-CORRUPTION AND PROPER USE OF FUNDS**

- 4.1. The Beneficiary undertakes to comply with all obligations set out in Annex VIII “Integrity and anti-corruption undertakings” of the Contract, in particular to notify Expertise France without undue delay of any change of situation affecting compliance with said undertakings, to take all necessary remedial measures and, if requested by Expertise France or the Donor, within the specified deadline and to the satisfaction of the latter.
- 4.2. In the event of confirmed improper utilisation of the Project’s funds, Expertise France may, after consulting the Beneficiary, considering its explanations and in accordance with the seriousness of the breach, demand full or partial repayment of the said amount improperly paid in the context of the Project.
- 4.3. Where funds have been improperly paid or used inappropriately by third parties, the Beneficiary shall take all applicable measures in accordance with its own rules and regulations in order to recover said funds, including, as applicable, via the relevant courts.
- 4.4. Compliance with Annex VIII of this Contract constitutes an essential contractual obligation. Any

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<sup>1</sup> If the Beneficiary is French. Otherwise, replace “French Embassy” with “appropriate consular or local competent authorities for the purposes of this Article 3;

violation shall be deemed to constitute a breach of Contract within the meaning of Article 12 of these general conditions. Furthermore, any non-compliance with a provision set out in this Article 4 and Annex VIII of the Contract may be classified as serious misconduct that may lead to the suspension or termination of the Contract, without prejudice to the application of administrative sanctions, including exclusion from participation in future grant award procedures.

- 4.5. The Beneficiary undertakes to make available to Expertise France all identification data relating to beneficiary natural persons (identity, nationality, residence) and/or beneficiary legal entities (company name, registered office and identity of shareholders) prior to signing all Grant Contracts, and to notify any changes to said information that may occur during Project implementation. The Beneficiary shall provide any clarification relating to said information if so requested by Expertise France. The Beneficiary shall in particular notify Expertise France of any transaction leading to a change of ownership in favour of a single person or entity covering 5% or more of its capital, or of any direct or indirect change of control.

## **ARTICLE 5: CONFIDENTIALITY AND DATA PROTECTION**

### Confidentiality

- 5.1. Subject to Article 16 of these general conditions, Expertise France and the Beneficiary undertake to preserve the confidentiality of any information, regardless of form, disclosed in writing or orally in relation to the execution of the Contract and duly identified in writing as confidential, until at least five years after the payment of the balance or until the end of any longer period that may be specified by the author of the communication at the time it is issued or immediately thereafter. Any information relating to a suspect act of fraud or corruption shall be deemed to be confidential by its very nature, even if it is not classified as such in writing. However, the confidential nature of any given document shall not prevent it from being communicated to third parties on a confidential basis where the parties or the Donor are under an obligation to do so. Under no circumstances may the disclosure of information compromise the legally recognised privileges, immunity or security of the personnel of the parties, of the Beneficiaries of a grant or of the end beneficiaries of the Project.
- 5.2. The Beneficiary shall not use confidential information for any purpose other than fulfilling its obligations under the Contract, unless agreed otherwise by Expertise France. Each Party shall obtain written consent from the other Party prior to publishing any such confidential information, unless:
- a) the Party issuing the communication agrees in writing to release the other Party from the aforementioned confidentiality obligations;
  - b) the confidential information enters the public domain in a manner other than breach of the confidentiality obligation by the Party bound by said obligation;

- c) the disclosure of confidential information is required under applicable law, regulations or rules.

5.3. The Donor enjoys access to all documents forwarded to Expertise France, it being specified that it shall apply an equivalent of confidentiality.

#### Personal data protection

- 5.4. During Project implementation, the Beneficiary shall guarantee an adequate level of personal data protection in accordance with the rules and procedures to which it is subject. Personal data shall be:
- processed legally, fairly and transparently vis-à-vis the data subject;
  - collected for specified, explicit and legitimate purposes and shall not be processed in any manner incompatible with said purposes;
  - appropriate, pertinent and restricted to what is necessary with regard to the purposes of the processing;
  - accurate and, as applicable, revised;
  - retained in a form that enables identification of the data subject for a period not exceeding that which is strictly necessary for the purposes of the processing;
  - processed in a manner that ensures an appropriate level of personal data security.

### **ARTICLE 6: VISIBILITY**

- 6.1. Unless Expertise France or the Donor agree or request otherwise, the Beneficiary shall take all necessary steps to make known the financing or co-financing provided by Expertise France and, as applicable, by the Donor.
- 6.2. The Beneficiary shall submit a communication plan for the approval of Expertise France and report on its implementation in accordance with Article 2 of these general conditions.
- 6.3. In particular, the Beneficiary shall mention the Project and the Grant from Expertise France and, as applicable, the Donor, when supplying information to the end beneficiaries of the Project, in its internal and annual reports and in any dealings with the media. It shall display the Expertise France logo and, as applicable, that of the Donor, whenever appropriate.
- 6.4. Any notice or publication by the Beneficiary concerning the Project, including those given at conferences or seminars, shall specify that the Project has received funding from Expertise France and, as applicable, the Donor. Any publication by the Beneficiary, in whatever form and by whatever medium, including the internet, shall include the following statement: “This document has been produced with the financial assistance of Expertise France and (as applicable) the Donor. The contents of this document are the sole responsibility of the Beneficiary and may under no circumstances be regarded as reflecting the position of Expertise France and (as applicable) the Donor”.

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- 6.5. The Beneficiary authorises Expertise France to publish its name and address, nationality, the purpose of the Grant, Project duration, implementation location, maximum amount of the Grant and level of Project cost funding as set out in Article 3 of the special conditions. Derogation from publication of this information may be granted if it could endanger the Beneficiary or undermine its interests.
- 6.6. If during Project implementation any equipment, vehicles or significant supplies are purchased thanks to the contribution of Expertise France and, as applicable, of the Donor, the Beneficiary shall publicise the fact in a fitting manner on said vehicles, equipment or significant supplies, notably by affixing the Expertise France logo and, as applicable, that of the Donor, as and when appropriate. Should any such action threaten to undermine the privileges and immunity of the Beneficiary or the security of its personnel or of the end beneficiaries, it shall propose other appropriate configurations. The size of the display, the statement of Expertise France as source of the funding and the affixing of its logo and, as applicable, of the Donor, must be selected such that visibility is achieved while avoiding confusion that the Project is an activity of the Beneficiary and that the equipment, vehicles or significant supplies are the property of the latter.
- 6.7. The Beneficiary shall ensure that the reports, publications, press releases and pertinent updates for the Project are forwarded on publication to the addresses stated in the special conditions.
- 6.8. The Parties shall immediately hold consultations and make every effort to rectify any inadequacy noted in the implementation of the visibility obligations set out in this Article 6, without prejudice to the measures Expertise France may take in the event of flagrant breach of any such obligation.
- 6.9. The Beneficiary must forward to Expertise France for validation all publications and communications material produced in the context of the Project (press releases, brochures, posters, reports, flyers, goodies) prior to their finalisation. In the case of campaigns targeting the general public, video spots and reports, the Communications Department of Expertise France must be involved in the design of the campaign or report, to ensure compliance with the rules of ethical communications and that its visibility rules are duly adhered to.
- 6.10. In order to enhance the impact of communications and to raise the Project profile, the Beneficiary shall forward all articles and reports (publications in the written media and on the internet) produced in the context of the Project to enable them to be relayed on the Expertise France website and via its other various communication channels.
- 6.11. Derogation from publication of this information may be granted if it could endanger the Beneficiary or undermine its interests, subject to receiving approval from Expertise France.
- 6.12. In the event of funding by the Initiative, and unless requested or agreed otherwise by Expertise France, the Beneficiary undertakes to personally ensure the visibility of the funding in compliance with the Visual Identity Manual of the Initiative, which sets out the communications and visibility rules of the Project financed by the Initiative, to be forwarded by Expertise France on signature of the Contract.
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- 6.13. In the event of funding being provided by Agence Française de Développement, the Beneficiary undertakes to conduct its communications in compliance with the visual identity of the agency as notified on commencement of Project implementation.

## ARTICLE 7: OWNERSHIP AND EXPLOITATION OF PROJECT RESULTS AND ASSETS

- 7.1. Unless otherwise stipulated in the special conditions, ownership of, and title and rights to, the intellectual and industrial property of the Project's results, reports and other related documents shall be vested in the Beneficiary.
- 7.2. Without prejudice to Article 7.1 of these general conditions, the Beneficiary grants to Expertise France and, as applicable, to the Donor, the right to use freely and as they may deem fit, notably to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the Project, regardless of form, provided they do not thereby breach existing industrial and intellectual property rights. This right is granted to Expertise France and, as applicable, to the Donor, worldwide and for the legal duration of the intellectual and industrial property rights. Its monetary value is included in the Project funding without the Beneficiary being able to claim any additional amount. The Beneficiary shall notify Expertise France in writing should the results referred to in Article 7.1 of these general conditions include pre-existing rights and the Beneficiary is unable to guarantee Expertise France and, as applicable, the Donor, the right to exploit said results.
- 7.3. The Beneficiary guarantees that it enjoys all rights to exploit any pre-existing intellectual property rights necessary for execution of the Contract.
- 7.4. If identifiable natural persons are depicted in any photograph or film, the Beneficiary shall, in the final report to Expertise France, submit a statement of said persons giving their permission for the exploitation of their images as defined. The above does not refer to photographs or films made in public places where random members of the public are identifiable only hypothetically, and to public persons acting in the context of their functions.
- 7.5. Unless otherwise clearly specified in the Project description, all equipment, vehicles and supplies paid for under the Project budget shall be transferred to the end beneficiaries of the Project, at the latest when submitting the final report. If there are no end beneficiaries of the Project to whom said items can be transferred, the Beneficiary may transfer them, unless an objection is received from the Donor, to:
- local authorities;
  - local beneficiaries;
  - another Project funded by Expertise France or the Donor;
  - or, exceptionally, retain ownership of said items.

In such cases, the Beneficiary shall submit a justified written request for authorisation to Expertise France, with an inventory listing the items concerned and a proposal concerning their use, in good

time and at the latest when submitting the final report.

Under no circumstances may the end use jeopardise the sustainability of the Project or result in a profit for the Beneficiary.

- 7.6. Copies of the proof of transfer of all equipment and vehicles for which the purchase cost was more than EUR 5,000 per item shall be attached to the final report. Said proof shall be retained by the Beneficiary for audit purposes.

## **ARTICLE 8: PROJECT EVALUATION AND MONITORING**

- 8.1. If Expertise France and/or, as applicable, the Donor or a related institution conducts interim or final evaluation or a monitoring assignment for the purposes of evaluating the conditions of Project implementation and operation, including in financial terms, or to assess the impact and the extent to which the objectives of the Project have been achieved, the Beneficiary undertakes to make available to Expertise France and/or, as applicable, the Donor and/or persons engaged by the latter, any document or information required for said purpose.
- 8.2. Expertise France shall forward to the Beneficiary the draft of the monitoring and evaluation report to enable the latter to formulate any observations it may have. Expertise France shall forward the final monitoring or evaluation report to the Beneficiary as soon as it has been completed.
- 8.3. As applicable, the representatives of the country where the Project is being implemented may be invited to participate at their own expense in the main monitoring assignments and evaluation exercises, unless such participation is likely to undermine the objectives of the Project, jeopardise safety or compromise the interests of the Partners or Beneficiary.

## **ARTICLE 9: AMENDMENT OF THE CONTRACT**

- 9.1. Without prejudice to the general rules applicable to administrative contracts which the Parties have agreed to apply to the Contract in the public interest, any amendment to this Contract or its annexes shall be made in writing. The Contract may only be modified during its term.
- 9.2. Any such amendment may not have the purpose or effect of making changes to the Contract that would call into question the grant award decision or contravene the principle of equality of treatment among applicants. Under exceptional and duly justified circumstances, the maximum grant referred to in Article 3.2 of the special conditions may be increased by a maximum upper limit of 20%.
- 9.3. If an amendment of the Contract is requested by the Beneficiary, it shall submit a duly justified request to Expertise France thirty days before the proposed effective date thereof, unless there are special and substantiated circumstances duly accepted by Expertise France requiring a shorter lead time.

- 9.4. Where the amendment to the budget or Project description does not affect the fundamental objective of the Project and the financial impact is no greater than 10% of the relevant budget item, the Beneficiary may amend the budget without prior notification of Expertise France. Where the financial impact is between 10.01% and 25.00% of the relevant budget item, the Beneficiary may amend the budget and justify said budget amendment in the financial report in question. Expertise France reserves the right to reject the justification provided. Any other modification, including the insertion of new lines, must be covered by an amendment.

Budget items are constituted by the expenditure categories defined in Annex III as coordination activities. This budget line fungibility rule excludes the items “Management & administration expenses” and “Contingencies”, which may not be modified.

- 9.5. Modifications affecting the address or bank account may be covered by simple notification issued by the Beneficiary. In order to be valid, any change of bank account must be approved by an authorised representative of the Beneficiary, clearly identified as such. However, in duly justified cases Expertise France shall be entitled to reject the Beneficiary’s decision.
- 9.6. Any request to extend the Implementation Period must be forwarded to Expertise France by the Beneficiary at least sixty (60) days before the end date of the Implementation Period. In order to be valid, extension of the Implementation Period must be approved in advance by Expertise France, duly notified to the Beneficiary in writing.

## ARTICLE 10: IMPLEMENTATION

### Implementation contracts

- 10.1. If the Beneficiary has to conclude implementation contracts in order to carry out the Project, this may only cover a limited portion of the Project and shall respect the procurement procedures and rules of nationality and origin set out in Annex IV of the Contract.
- 10.2. To the extent relevant, the Beneficiary shall ensure that the conditions applicable to it under Articles 3, 4, 5, 6, 7, 8, 14 and 16 of these general conditions are also applicable to contractors awarded an implementation contract.
- 10.3. The Beneficiary shall provide in its report to Expertise France a comprehensive and detailed report on the awarding and execution of the contracts awarded under Article 10.1 of these general conditions, in accordance with the reporting requirements set out in section 2 of Annex IV.

### Rapid detection system and exclusion

- 10.4. The Beneficiary shall adopt reasonable measures in accordance with its own rules and regulations to ensure that applicants and potential bidders are excluded from participating in all procedures covering procurement or the awarding of grants, public contracts or subsidies, should the

Beneficiary learn or suspect that any such entity is in any of the situations set out in section 3.3 of Annex IV.

#### Financial support for third parties

- 10.5. In order to support the attainment of the objectives of the Project, and in particular where the implementation of the Project requires financial support for third parties, the Beneficiary may award financial support if provided for under the special conditions.
- 10.6. The maximum amount of financial support shall be limited to EUR 40,000 for each third party, except where the main purpose of the Project is to redistribute the Grant.
- 10.7. In compliance with the relevant instructions of Expertise France, the description of the Project shall define the types of entity eligible for financial support and include a fixed list of the types of activity eligible for financial support. The criteria for the selection of the third parties benefitting from said financial support, including the criteria for determining its exact amount, shall also be specified.
- 10.8. In accordance with Article 2 of these general conditions, the Beneficiary shall provide in its report to Expertise France a comprehensive and detailed report on the awarding and implementation of any financial support provided. These reports should provide relevant information, including the award procedures, the identities of the recipients of financial support, the amount granted, the results achieved, the problems encountered and solutions found, the activities performed and a timetable for completion of outstanding activities.
- 10.9. The Beneficiary shall ensure that the conditions applicable to it under Articles 3, 4, 5, 6, 7, 8, 14 and 16 of these general conditions are also applicable to third parties awarded financial support.

#### Fight against deforestation

- 10.10. Within the framework of the policy to combat imported deforestation and in the hypothesis of the use of raw materials or processed products, the Contractor undertakes to evaluate precisely the quantities really necessary and to study alternatives to the products at risk listed below:
  - Meat;
  - Eggs ;
  - Dairy products ;
  - Ready-made meals, margarine, spreads;
  - Leather shoes ;
  - Automotive upholstery ;
  - Household and cleaning products ;
  - Agrofuels ;
  - Lumber ;
  - Solid wood or particle;
  - Fuels ;



- Paper ;
- Cardboard ;
- Textiles ;
- Coffee, chocolate ;
- Exotic fruits ;
- Electronics.

For more information, the guide Engaging in Zero Deforestation Public Procurement is available at the following email address:

[https://www.ecologie.gouv.fr/sites/default/files/Guide\\_politique\\_achat\\_public\\_zero\\_deforestation.pdf](https://www.ecologie.gouv.fr/sites/default/files/Guide_politique_achat_public_zero_deforestation.pdf)

## ARTICLE 11: EXTENSION AND SUSPENSION

### Extension

- 11.1. The Beneficiary shall inform Expertise France without delay of any circumstances likely to hamper or delay implementation of the Project. In accordance with Article 9 of these general conditions, the Beneficiary may request an extension of the Project's Implementation Period as laid down in Article 2 of the special conditions, accompanied by all the supporting documentation required for appraisal purposes, at least sixty (60) days before the end of the Implementation Period.

### Suspension of Contract or Project execution by Expertise France

- 11.2. Expertise France may suspend implementation of the Project or any part thereof should exceptional circumstances, notably force majeure, render said implementation excessively difficult or dangerous. Expertise France shall inform the Beneficiary without delay stating the nature and probable duration of the suspension. The Beneficiary enjoys the same right should exceptional circumstances or an event of force majeure render Project implementation or any part thereof excessively difficult or dangerous. The Beneficiary shall inform Expertise France without delay, stating the nature and probable duration of the suspension. It shall provide all necessary clarification, notably stating the measures taken to minimise any possible prejudice, the foreseeable effects of the suspension and the implementation resumption date.
- 11.3. Expertise France may then terminate the Contract in accordance with Article 12.1 of these general conditions. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the period of suspension and any possible damage and shall resume implementation once circumstances allow, informing Expertise France accordingly.
- 11.4. Expertise France may suspend the Contract if:
- a) It is in possession of information proving or suggesting that irregularities, fraud, corruption, anti-competitive practices or breaches of substantial obligations have been

committed during the award procedure, evaluation or Project implementation or that the Beneficiary has failed to meet any of its obligations set out in Annex VIII of the Contract;

- b) It is in possession of information proving or suggesting that irregularities, fraud, corruption, anti-competitive practices or breaches of obligations have been committed which jeopardise the reliability or effectiveness of the Beneficiary's internal control system, or the legality or regularity of the underlying operations;
- c) It is in possession of information proving or suggesting that the Beneficiary or any of its Partners has committed any irregularity, fraud or breach of obligations in the context of other agreements funded by the Donor, provided said irregularity, fraud or breach of obligations has a significant impact on the Contract;
- d) The Beneficiary is confronted by any of the following events:
  - full or partial transfer or partial contribution of its assets, thereby affecting its solvency or ability to successfully complete the Project;
  - merger, demerger, dissolution or liquidation;
  - cessation or substantial modification of its business activities;
  - decision issued by a corporate body or court, or any other commencement of proceedings, concerning the suspension of payments, a debt freeze or the liquidation, dissolution, court-ordered administration or restructuring of the Beneficiary or any similar procedure or measure;
  - intervention in the Project by an external authority whose decisions or actions cause the paralysis of the Project.

Prior to suspension, Expertise France shall formally notify the Beneficiary of its intention to suspend the Contract, while inviting it to present its observations within ten (10) days of receipt of the notification. The Beneficiary shall provide all requested documents, clarification and information within ten (10) days of receiving said request from Expertise France. If, notwithstanding the documents, clarification or information provided by the Beneficiary, Expertise France decides to press ahead with suspension, it may suspend all or part of Contract implementation with seven days' notice. Following the suspension of Contract implementation, Expertise France may terminate the Contract in accordance with Article 12.2.

#### Force majeure

- 11.5. For the purposes of the Contract, the term force majeure shall mean any unforeseeable and unavoidable event outside the control of either Party which cannot be overcome by the exercise of due diligence by either Party, such as natural disaster, war (declared or otherwise), blockade or epidemic. Pursuant to this Contract, a decision by Expertise France or, as applicable, by the Donor, to suspend the cooperation with the Partner country is considered to be a case of force majeure when it implies the suspension of funding hereunder. This notably applies if the programme is being funded by a Donor where the latter notifies Expertise France by any means that aid funding is being suspended due to a crisis situation calling for it to change policy.

- 11.6. The Beneficiary shall not be held in breach of its contractual obligations if it is prevented from fulfilling said obligations due to an event of force majeure.

**Extension of the Implementation Period following suspension**

- 11.7. In the event of suspension in accordance with Articles 11.2 and 11.4 of these general conditions, the Implementation Period of the Project shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the Contract that may be necessary to adapt the Project to the new implementation conditions.
- 11.8. This article does not apply to operating grants.

## **ARTICLE 12: TERMINATION OF THE CONTRACT**

**Termination due to an event of force majeure**

- 12.1. On occurrence of an event of force majeure as set out in Article 11.4 of these general conditions, the Party believing that the Contract can no longer be executed effectively or appropriately shall duly consult the other Party. Failing agreement on a solution, Expertise France may terminate the Contract without compensation with thirty (30) days' notice, to take effect from the date of notification of the termination decision.

**Termination by Expertise France**

- 12.2. Without prejudice to any other provision, Expertise France may terminate the Contract for reasons of public interest relating to the object hereof and, additionally, in compliance with the principle of proportionality, if the Beneficiary:
- a) fails to fulfil any of its substantial obligations hereunder;
  - b) fails to meet any of its undertakings set out in Annex VIII of the Contract;
  - c) is guilty of making false declarations or has provided incomplete or misleading declarations with the intention of obtaining the Grant from Expertise France, or has provided reports not reflecting the real situation in order to obtain or maintain the Expertise France Grant without just cause;
  - d) is bankrupt or is the subject of winding-up proceedings or any other procedure of a similar nature;
  - e) has committed serious professional misconduct, duly substantiated;
  - f) has committed any act of fraud or corruption, or is involved in a criminal organisation, money laundering or terrorism financing, terrorism-related offences, child labour or any

other form of human exploitation, has not fulfilled obligations relating to the payment of tax or social security contributions or any applicable legal obligation, including by creating an entity for this purpose, where said acts have been established by a final judgement or administrative ruling, or on the basis of evidence in the possession of Expertise France;

- g) fails to fulfil the reporting obligations set out in Article 2 of these general conditions;
- h) has committed one of the infringements described in Article 11.4 of these general conditions on the basis of evidence in the possession of Expertise France.

- 12.3. In the event of termination for breach, Expertise France shall formally notify the Beneficiary of its intention to terminate the Contract, while inviting it to present its observations within ten (10) days of receipt of the notification. The Beneficiary shall provide all requested documents, clarification and information within ten (10) days of receiving notification of said intention from Expertise France. If, notwithstanding the documents, clarification or information provided by the Beneficiary, Expertise France decides to proceed with termination, it shall notify the decision to terminate by registered letter with acknowledgement of receipt. The decision shall take effect on the date expressly stated in the notification.

In the event of termination due to reasons of public interest, Expertise France shall notify the decision to terminate by registered letter with acknowledgement of receipt. The decision shall take effect on the date expressly stated in the notification.

Until the termination comes into force, Expertise France may suspend payment as a precautionary measure in accordance with Article 15.6 of these general conditions, with notification thereof issued to the Beneficiary without undue delay.

#### End date

- 12.4. The obligations of Expertise France under the Contract shall cease eighteen (18) months after the Implementation Period laid down in Article 2 of the special conditions, unless the Contract is terminated in accordance with this article.

If necessary, Expertise France may extend payment terms to a subsequent Contract completion date in order to meet its payment obligations, in all cases where the Beneficiary has submitted a payment request in accordance with the provisions of the Contract or, in the event of dispute, until completion of the dispute settlement procedure provided for in Article 13 of these general conditions. Expertise France shall notify the Beneficiary of any postponement of the end date.

- 12.5. The Contract shall terminate automatically if it has not given rise to any payment by Expertise France within two years of its signature.

#### Effects of termination

- 12.6. On termination, the Beneficiary shall take all steps without undue delay to bring the Project to a close in a prompt and orderly manner and to keep further expenditure to a minimum. Without

prejudice to Article 14 of these general conditions, the Beneficiary shall be entitled to payment only for the part of the Project carried out, excluding costs relating to current commitments due to be executed after termination.

To this end, the Beneficiary shall issue a payment request to Expertise France within the time limit set out in Article 15.2 of these general conditions, with effect from the date of termination. It must also present a final report in accordance with its obligations specified in Article 2 of these general conditions. Expertise France shall neither reimburse nor accept financial responsibility for costs or expenditure which are not included and justified in a report which has been approved by Expertise France in advance.

In the event of termination as provided for in Article 12.2 of these general conditions, Expertise France may agree to reimburse the unavoidable residual expenditure incurred during the notice period, provided the first subparagraph of this Article 12.6 has been properly executed.

In the event of termination for breach, Expertise France may, after having properly consulted the Beneficiary and depending on the gravity of the failings, demand full or partial repayment of amounts unduly paid in the context of the Project.

## **ARTICLE 13: APPLICABLE LAW AND DISPUTE SETTLEMENT**

- 13.1. The Contract shall be governed by French law.
- 13.2. The Parties to this Contract shall do everything possible to settle amicably any dispute arising between them during the implementation of this Contract, with due regard for fairness of contractual relations. To this end, they shall communicate their position and any solution that they consider possible in writing, and come together at the request of either Party. The Beneficiary and Expertise France shall respond to any request for an amicable settlement within thirty days. Once this period has expired, or if the attempt to reach amicable settlement has not produced an agreement within sixty (60) days of the first request, the Beneficiary or Expertise France may notify the other Party that it considers the procedure to have failed.
- 13.3. In the event of failure of the aforementioned procedures, each Party to this Contract may submit the dispute to the Paris Judicial Court. Any failure to comply with the provisions of this article constitutes grounds for any such petition being classified as inadmissible.

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## **FINANCIAL PROVISIONS**

### **ARTICLE 14: ELIGIBLE COSTS**

#### **Cost eligibility criteria:**

14.1. Eligible costs are actual costs incurred by the Beneficiary which meet all the following criteria:

- a) they are incurred during the implementation of the Project as specified in Article 2 of the special conditions. In particular, the following should be noted:
  - (i) Costs relating to services and works must cover activities performed during the Implementation Period. Costs relating to supplies must cover delivery and installation of items during the Implementation Period. The signing of a contract, the placing of an order or entering into any commitment for expenditure within the Implementation Period for future delivery of services, works or supplies after expiry of the Implementation Period do not meet this requirement. Cash transfers between the Beneficiary and its Partners may not be considered as incurred costs;
  - (ii) An exception is made for costs relating to final reports, including expenditure verification, audit and final evaluation of the Project, which may be incurred after the Implementation Period of the Project;
  - (iii) Committed costs should be paid before submission of the final reports. They may be paid afterwards, provided they are listed in the final report together with the estimated date of payment;
  - (iv) Procurement procedures, as set out in Article 10 of these general conditions, may have been initiated and contracts may be concluded by the Beneficiary or its Partners before the start of the Implementation Period, subject to compliance with Annex IV;
- b) They are to be included in the estimated overall budget for the Project;
- c) They must be necessary for implementation of the Project, be directly attributable to the Project, result directly from its implementation and be debited in proportion to their actual utilisation;
- d) They must be committed in accordance with the provisions of the Contract;
- e) They must be identifiable and verifiable and notably be recognised in the accounts of the

Beneficiary and determined in accordance with accounting standards and the usual cost of accounting practices applicable to the Beneficiary;

- f) They must comply with the requirements of applicable tax, social and environmental legislation;
- g) They must be reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

Eligible direct costs

14.2. Subject to compliance with Article 14.1 of these general conditions and, where relevant, with the provisions of Annex IV, the following direct costs of the Beneficiary and its Partners shall be eligible:

- a) The cost of staff assigned to the Project, corresponding to actual gross salaries including social security charges and other remuneration-related costs. They shall not exceed those normally borne by the Beneficiary or its Partners, unless justified by demonstrating their essential nature for Project implementation;
- b) Travel and subsistence costs for staff and other persons taking part in the Project, provided they comply with the usual practices of the Beneficiary or its Partners under their respective rules and regulations or do not exceed the assignment costs/per diem stated in the reference scale specified in Article 7 of the special conditions at the time of said assignment;
- c) Acquisition costs of new or used equipment and supplies specifically for the purposes of the Project, provided that ownership is transferred at the end of the Project as required under Article 7 of these general conditions;
- d) Costs of consumables;
- e) Costs emanating from other contracts placed by the Beneficiary or its Partners for the purposes of implementing the Project, in accordance with Article 10 of these general conditions;
- f) Costs deriving directly from the requirements of the Contract (dissemination of information, evaluation specific to the Project, audit, translation, reproduction, insurance, etc.) including the costs of financial services (notably the costs of transfers and financial guarantees, where stipulated herein);
- g) Duties, taxes and similar charges, including VAT, paid and not recoverable by the Beneficiary or its Partners, unless provided for otherwise in the special conditions;
- h) Overheads, in the case of operating grants.

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### Contingency reserve

- 14.3. A reserve for contingencies and/or possible fluctuations in exchange rates, not exceeding 5% of the direct eligible costs, may be included in the Project budget to allow for adjustments necessary in light of unforeseeable changes of circumstances on the ground. With the exception of projects financed by the Initiative, it may only be used with prior written authorisation from Expertise France, in response to a duly supported request issued by the Beneficiary.

Regarding projects financed by the Initiative, prefinancing payments shall be calculated on the basis of provisional budgets including the contingency reserve, as applicable.

### Indirect costs

- 14.4. The indirect costs for the Project are those eligible costs which, under the eligibility conditions set out in Article 14.1 of these general conditions, may not be identified as specific costs directly linked to the implementation of the Project which may be attributed directly, but which are nevertheless incurred by the Beneficiary in connection with the eligible direct costs of the Project. These costs may not include ineligible costs as defined below or costs already declared under another budget line of this Contract.

A fixed percentage of the total amount of direct eligible costs of the Project not exceeding the percentage laid down in Article 3 of the special conditions may be claimed to cover indirect Project costs. The fixed-rate financing of indirect costs does not need to be supported by accounting documents. This amount shall not be taken into account with regard to the maximum amount of simplified costs.

Indirect costs shall not be eligible under a grant awarded to a Beneficiary already receiving an operating grant financed from the European Union budget during the period in question.

This Article 14.4 does not apply to operating grants.

### Ineligible costs

- 14.5. The following costs shall be treated as ineligible:
- a) Debts and debt service charges (interest);
  - b) Provisions for losses, debts or potential future liabilities;
  - c) Costs declared by the Beneficiary and financed under another project or work programme;
  - d) Purchases of land or buildings, except where necessary for direct implementation of the Project and in accordance with the conditions set out in the special conditions. In all cases ownership shall be transferred in accordance with Article 7 of these general conditions, at the latest by the end of the Project;



- e) Currency exchange losses;
- f) Credits to third parties, unless specified otherwise in the special conditions;
- g) Contributions in kind;
- h) Salary costs of national administration personnel, unless specified otherwise in the special conditions and only to the extent that they relate to the cost of activities which the relevant public authority would not perform in the absence of the Project.

## ARTICLE 15: PAYMENTS

### Payment procedures

- 15.1. Expertise France shall pay the Grant to the Beneficiary using one of the payment procedures set out below, in accordance with Article 4 of the special conditions.

#### **Option 1: Projects with an Implementation Period of 12 months or less or a Grant of EUR 100,000 or less**

- (i) Initial pre-financing payment of 80% of the maximum amount referred to in Article 3.2 of the special conditions (excluding contingencies);
- (ii) The balance of the final amount of the Grant.

#### **Option 2: Projects with an Implementation Period of more than 12 months and a Grant of more than EUR 100,000**

- (i) Initial pre-financing payment of 100% of the fraction of the estimated budget financed by Expertise France for the first pre-financing period as set out in Article 4 of the special conditions (excluding contingencies);
- (ii) Further pre-financing payments of 100% of the fraction of the estimated budget financed by Expertise France for the following prefinancing period (excluding unauthorised contingencies);
  - The prefinancing period shall cover a period of twelve (12) months, unless provided for otherwise in the special conditions;
  - Within sixty (60) days of the end of the prefinancing period, the Beneficiary shall forward an interim report to Expertise France.
  - The Beneficiary may submit a request for additional pre-financing (even before

the end of the prefinancing period) where the fraction of expenditure actually incurred and financed by Expertise France is 70% or more of the previous payment and 100% of any previous payments, on presentation of an interim financial report;

- The total sum of pre-financing payments may not exceed 90% of the amount referred to in Article 3.2 of the special conditions, excluding unauthorised contingencies;
- Depending on the progress of the Project and the completeness and accuracy of the interim reports forwarded by the Beneficiary, Expertise France reserves the right to modify the prefinancing periods and to change from 6-monthly to annual prefinancing, or vice versa.

(iii) The balance of the final amount of the Grant.

### **Option 3: all Projects**

- (i) The final amount of the Grant (in a single payment on Contract conclusion). This option may only be implemented in urgent circumstances duly declared as such by Expertise France.

### **Submission of final reports**

- 15.2. The Beneficiary shall submit the final report to Expertise France no later than ninety (90) days after the end of the Implementation Period as defined in Article 2 of the special conditions.

### **Payment request**

- 15.3. The payment request shall be drafted using the model in Annex V and be accompanied by the following documents, and any other additional document provided for in the special conditions:
- a) A narrative and financial report in accordance with Article 2 of these general conditions;
  - b) A budget forecast for the following reporting period, in the case of further pre-financing requests;
  - c) A detailed breakdown of expenditure in accordance with Article 15.7 of these general conditions.

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

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

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**Payment terms**

- 15.4. The initial pre-financing payment shall be made within thirty (30) days of receipt by Expertise France of the Grant Contract duly countersigned by the Beneficiary. In the event of a dedicated bank account being demanded from the Beneficiary by Expertise France (depending on the reliability of the Beneficiary's accounting system), the forwarding of the account details defers the commencement of the period of thirty (30) days.

Further pre-financing payments and payments of the balance shall be made within thirty (30) days of receipt of the payment request by Expertise France.

However, further pre-financing payments and payments of the balance shall be made within sixty (60) days of receipt of the payment request by Expertise France for grants higher than EUR 5,000,000.

The payment request shall be deemed to have been accepted in the absence of any written response from Expertise France within the aforementioned periods.

The Beneficiary shall send to Expertise France an e-mail confirming receipt of the funds, specifying the amount received in euros and, as applicable, the equivalent local currency value. The Beneficiary shall also send as an attachment to said e-mail a scanned copy of the bank payment notification certifying receipt of the funds for each pre-financing payment received, to be issued within thirty (30) days of receipt of said funds.

**Payment deferral/rejection**

- 15.5. Having consulted the Donor, as appropriate, Expertise France may defer or definitively reject any payment request, where:
- a) The execution by Expertise France of any of its Project financing obligations is or becomes illegal under any regulations by which it is bound;
  - b) An event or measure has taken place which, in the opinion of the Donor, is likely to have a significant negative impact;
  - c) The Beneficiary fails to meet any of its undertakings set out in Annex VIII of the Contract;
  - d) An authorisation required by Expertise France or the Beneficiary in order to fulfil or comply with any of their respective financing obligations, other obligations hereunder or required for the normal functioning of the Project, is not received in good time, is cancelled, has lapsed or ceases to produce its full effects.

**Suspension of payment terms**

- 15.6. Expertise France may suspend the payment deadline for a given payment request by notifying the Beneficiary that:

- a) The stated amount is not due; or
- b) The required supporting documentation has not been provided. Expertise France may therefore request clarification, modification or information supplementary to that contained in the narrative or financial reports. Such clarification or additional information may notably be requested by Expertise France should it suspect that the Beneficiary has not met its obligations during project implementation; or
- c) Credible information questioning the eligibility of the declared expenditure has been brought to the attention of Expertise France; or
- d) It is suspected that the Beneficiary has failed to meet any of its undertakings set out in Annex VIII of the Contract;
- e) Credible information suggesting that significant shortcomings exist in the Beneficiary's internal control system, or that the expenditure declared by the Beneficiary is related to uncorrected irregularities, has been brought to the attention of Expertise France. In such a case, Expertise France may suspend payment terms in order to prevent any possible significant damage being caused to the Donor's financial interests.

The suspension of payment terms shall commence once the aforementioned notification has been forwarded by Expertise France to the Beneficiary. Payment terms shall be reinstated with effect from the date on which a correctly formulated request for payment is issued. The Beneficiary shall provide any requested documents, clarification or information within thirty days of the corresponding request. Notwithstanding the documentation, clarification or information provided by the Beneficiary, should the payment request continue to be inadmissible or the award procedure or implementation of the Grant prove to have been subject to substantial errors, irregularities, fraud, or breach of obligations, Expertise France may refuse to proceed with further payments, either in whole or in part, and may, in the circumstances provided for in Article 12, terminate the Contract.

Expertise France may also suspend payments as a precautionary measure without prior notice, prior to or instead of terminating the Contract, as provided for in Article 12 of these general conditions.

#### Late payment interest

- 15.7. Should Expertise France pay the Beneficiary after the due date, it shall pay late payment interest calculated as follows:
- a) At the rediscount rate applied by the central bank of the country in which Expertise France is established, if payments are made in the currency of said country;
  - b) At the rate applied by the European Central Bank to its main refinancing operations in euros, as published in the Official Journal of the European Union, C series, if payments are made in euros;

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

By way of exception, if the interest calculated in accordance with this provision is lower than or equal to EUR 200, it will be only paid to the Beneficiary on request submitted within two months of receipt of the corresponding late payment.

This interest shall not be treated as income for the purposes of Article 17.2 of these general conditions.

This article does not apply if the Beneficiary is an agency of a European Union Member State, notably a regional or local government authority or other public body acting on behalf of the Member State for the purposes of the Contract.

Expenditure verification report (financial audit report on expenditure)

- 15.8. Expenditure audits will be conducted by an accredited auditor engaged by Expertise France under contract.
- 15.9. An expenditure audit must be produced for:
  - a) Any final report in the case of grants of more than EUR 40,000;
  - b) Any interim financial report (in addition to the audit required for the final report) for any Grant of more than EUR 2,000,000 or for any Grant with an Implementation Period of more than 3 years.

Expertise France also reserves the right to conduct as many expenditure audits as it may deem necessary, in accordance with its assessment of the risks resulting from analysis of the Beneficiary's financial and organisational robustness and with the risks inherent to the Project implementation context. Accordingly, interim Project reports shall be produced at frequencies set out in the special conditions.

- 15.10. The Beneficiary shall forward to the auditor all documents and information requested during the audit process.

Where the Beneficiary is a government department, public body or international organisation, Expertise France may accept substitution of expenditure audit by a detailed breakdown of expenditure, subject to agreement from the Donor, as applicable.

- 15.11. The auditor shall examine whether the costs declared by the Beneficiary are real, accurately recognised and eligible under the Contract and identify the source of any non-conformities. The expenditure audit report shall cover all expenditure not covered or resolved by any previous

expenditure audit report.

Following examination of documents received and audit activities carried out in the field, the auditor will submit the draft audit report to the Beneficiary to enable the latter to issue any observations it may have within a period of two (2) weeks. After this period, the auditor will forward the final audit report to Expertise France.

#### Financial guarantee

- 15.12. If the Grant exceeds EUR 40,000, Expertise France may request a financial guarantee in the amount of the initial pre-financing payment.

Said guarantee shall be denominated in euros or in the currency of the state in which Expertise France is established and, unless specified otherwise by Expertise France, shall be issued by an approved bank or financial institution established in one of the member states of the European Union. It shall remain in force until released by Expertise France on payment of the balance.

These provisions shall not apply if the Beneficiary is a non-profit organisation, government department or public body, unless stipulated otherwise in the special conditions.

#### Rules for currency conversion

- 15.13. Expertise France shall make payments to the bank account specified in the financial identification form in Annex V, which enables funds paid by Expertise France to be identified. Expertise France shall make payments in the currency specified in the special conditions.

Reports shall be submitted in the currency set out in the special conditions and may be drawn from financial statements denominated in other currencies, on the basis of the legislation and accounting standards applicable to the Beneficiary. In such cases and for reporting purposes, conversion into the currency defined in the special conditions shall be carried out using the exchange rate at which each Expertise France's contribution has been recorded in the Beneficiary's accounts, unless provided for otherwise in the special conditions.

Unless provided for otherwise in the special conditions, costs incurred in currencies other than the one used in the Beneficiary's accounts for the Project shall be converted by using the conversion rate between the euro and another currency as per the InfoEuro monthly day rate applicable on the payment order issue date, as published on the European Commission website.

In the event of exceptional exchange rate fluctuation, the Parties shall consult in order to amend the Project and lessen the impact of any such fluctuation. Where necessary, Expertise France may take additional measures, such as terminating the Contract.

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## ARTICLE 16: ACCOUNTING AND TECHNICAL AND FINANCIAL AUDIT

### Accounts

- 16.1. The Beneficiary shall always maintain accurate accounts and records relating to implementation of the Project, using an appropriate double-entry accounting system. The accounting regulations and standards of the Beneficiary shall be applied, provided they guarantee the accuracy, completeness, reliability and appropriateness of information. Transactions and financial statements shall be covered by the internal and external audit procedures specified in the Beneficiary's regulations and standards.

The aforementioned accounting practices:

- a) Shall be integrated within the Beneficiary's usual accounting system or be supplementary to said system;
  - b) Shall comply with the accounting and bookkeeping policies and rules applicable in the country concerned;
  - c) Shall enable income and expenditure relating to the Project to be easily traced, identified and verified.
- 16.2. The Beneficiary shall ensure that any financial report required under Article 2 can be properly and easily reconciled with the accounting and bookkeeping system and with the underlying accounting and other relevant records. To this end, the Beneficiary shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification purposes.

### Right of access

- 16.3. The Beneficiary and its Partners shall allow verifications to be carried out by Expertise France, TRACFIN, the European Anti-Fraud Office, the French Court of Auditors, the financial inspection bodies of the French state, the European Court of Auditors, the European Commission and any external auditor authorised by Expertise France and, as applicable, by the Donor or Agence Française de Développement, and all the latter's staff responsible for investigations. The Beneficiary and its Partners must take all necessary steps to facilitate their work. The Beneficiary and its Partners shall allow the above entities to:
- a) Access the sites and locations at which the Project is implemented;
  - b) Examine their accounting and information systems, documents and databases concerning the technical and financial management of the Project;
  - c) Make copies of documents;

- d) Carry out on-site verifications;
  - e) Conduct a full audit on the basis of all accounting documents and any other document relevant to the financing of the Project.
- 16.4. Access given to persons engaged by Expertise France, TRACFIN, the European Anti-Fraud Office, the financial inspection bodies of the French state and the French and European Court of Auditors, any external auditor authorised by Expertise France and, as applicable, by the Donor or Agence Française de Développement, and all the latter's staff responsible for investigations duly carrying out verifications as provided for in Article 16 and Article 15.7 of these general conditions, shall be on the basis of strict confidentiality with respect to third parties, without prejudice to the obligations incumbent on such parties under their respective internal rules.

#### Data retention

- 16.5. For a period of five years following the end date, and in all circumstances while any ongoing audit, verification, appeal, litigation or pursuit of claim remains to be concluded, provided that said activities have been notified to the Beneficiary, in accordance with Article 17 of these general conditions the Beneficiary shall retain all relevant financial records (originals and copies) relating to any contract, public procurement contract or grant agreement financed by a contribution from Expertise France or, as applicable, the Donor.
- 16.6. Said documents shall be easily accessible and filed so as to facilitate their examination, whereby the Beneficiary shall inform Expertise France of their precise location.
- 16.7. All supporting documentation shall be available in its original form, including in electronic format.

In addition to the reports specified in Article 2 of these general conditions, the documents referred to in this Article 16 notably include:

- a) accounting records (computerised or manual) from the Beneficiary's accounting system, such as general ledger, sub-ledgers, payroll, fixed asset schedules and other relevant accounting information;
- b) Proof of procurement procedures such as tender documents, bidders' submissions and evaluation reports;
- c) Proof of commitments, such as contracts and purchase orders;
- d) Proof of delivery of services, such as approved reports, time sheets, delivery notes, attendance records for seminars, conferences and training courses (including documentation and material obtained, certificates) etc.;
- e) Proof of receipt of goods, such as delivery notes from suppliers;



- f) Proof of completion of works, such as handover reports;
  - g) Proof of purchases, such as invoices and receipts;
  - h) Proof of payment, such as bank statements, debit confirmations, proof of settlement by the contractor;
  - i) Proof that paid taxes and/or VAT cannot be reclaimed;
  - j) For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel and maintenance costs;
  - k) Personnel records and payroll, such as employment contracts, pay slips and time sheets. For local staff recruited on fixed-term contracts, details of remuneration paid, duly certified by the person in charge at the local level, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or staff based in Europe (if the Project is implemented in Europe), analysis and breakdown of expenditure per month of actual work, assessed on the basis of costs per unit of time worked and broken down into gross salary, social security charges, insurance and net salary.
- 16.8. Any non-compliance with the obligations set out in 16.1 to 16.7 of these general conditions shall constitute breach of a substantial obligation of the Contract. In any such case, Expertise France may notably suspend the Contract, payment or payment terms, terminate the Contract and/or reduce the amount of the Grant.

## **ARTICLE 17: FINAL AMOUNT OF THE GRANT**

### **Final amount**

- 17.1. Except in application of Article 9.2 of these general conditions, the Grant may not exceed the maximum ceiling in Article 3.2 of the special conditions, either in terms of the absolute value or the percentage.
- If the eligible costs at the end of the Project are less than the estimated eligible costs as set out in Article 3.1 of the special conditions, the Grant shall be limited to the amount obtained by applying the percentage specified in Article 3.2 of the special conditions to the eligible costs of the Project approved by Expertise France and, in the case of Initiative financing, the Grant is limited to the total eligible expenditure.
- 17.2. In addition, and without prejudice to its right to terminate this Contract pursuant to Article 12 of these general conditions, if the Project is implemented improperly or partially - and therefore contrary to the Project description provided in Annex I - or if it is delivered late, Expertise France may, by way of duly reasoned decision and after allowing the Beneficiary to submit its

observations, reduce the initial grant in proportion to the actual implementation of the Project and in accordance with the terms of the Contract. This also applies to the visibility obligations set out in Article 6 of these general conditions.

#### **Non-profit principle**

- 17.3. The Grant may not produce a profit for the Beneficiary, unless specified otherwise in Article 7 of the special conditions. Profit is defined as a surplus of receipts over the eligible costs approved by Expertise France, when the request for payment of the balance is issued.
- 17.4. The receipts to be taken into account are the consolidated receipts on the date on which the payment request for the balance is issued by the Beneficiary and falling within one of the two following categories:
- a) Income generated by the Project, unless specified otherwise in the special conditions;
  - b) Financial contributions specifically assigned by donors to the financing of the same eligible costs financed by the Contract and declared by the Beneficiary as actual costs hereunder. Any financial contribution that may be used by the Beneficiary to cover costs other than those eligible under the Contract, or where the unused fraction is not due to the donors at the end of the Project, is not to be treated as a receipt for the purposes of verifying whether the grant produces a profit for the Beneficiary.
- 17.5. For operating grants, amounts allocated to constituting reserves shall not be treated as receipts.
- 17.6. Should the final amount of the Grant determined in accordance with the Contract result in a profit, it shall be reduced by the percentage of the profit corresponding to the final Expertise France contribution to the eligible costs actually incurred and duly approved by Expertise France.

## **ARTICLE 18: REPAYMENT AND RECOVERY**

#### **Recovery**

- 18.1. In accordance with Article 4.11 of the Contract, should the Beneficiary fail to perform any of its obligations hereunder or in the event of absent or inadequate substantiation of utilisation of the funds, Expertise France may demand the repayment of all or part of any sums already paid under the Contract. If any amount is unduly paid to the Beneficiary or if recovery is justified under the terms of the Contract, the Beneficiary undertakes to repay said amounts to Expertise France.
- 18.2. More particularly, any payment made does not preclude the possibility for Expertise France to issue a recovery order following an expenditure verification report, audit or other verification of the payment request. Prior to recovery, Expertise France shall formally notify the Beneficiary of its intention to recover any unduly paid amount, specifying the amount and reasons for said recovery and inviting the Beneficiary to issue any observations it may have within twenty (20) days of

receiving said notification. After having considered any observations presented by the Beneficiary, should Expertise France decide to proceed with the recovery procedure, it may confirm said procedure by way of formal notification issued to the Beneficiary.

- 18.3. By way of derogation from Article 13.2 of these general conditions, the commencement of conciliation shall not prevent Expertise France from issuing a recovery order.
- 18.4. Should any verification reveal that the methods used by the Beneficiary to determine unit costs, fixed amounts or fixed-rate financing do not comply with the conditions set out herein, Expertise France shall be entitled to reduce the final amount of the Grant proportionately up to the amount of the unit costs, fixed amounts or fixed-rate financing.
- 18.5. The Beneficiary undertakes to repay to Expertise France any amounts paid in excess of the final due amount within thirty days of the debit note having been issued, the latter being the letter by which Expertise France requests the amount owed by the Beneficiary.

#### Late payment interest

- 18.6. Should the Beneficiary fail to make repayment within the deadline set by Expertise France, this may increase the amounts due by adding default interest at the rate applied by the European Central Bank to its main refinancing operations in euros, as published in the Official Journal of the European Union, C series, if payments are in euros, on the first day of the month in which the due date expired, plus three and a half percentage points. The default interest shall be incurred over the period between the date of expiry of the due date set by Expertise France and the date on which payment is actually made. Any partial payments shall first cover the default interest established accordingly.

#### Offsetting

- 18.7. Amounts to be repaid to Expertise France may be offset against amounts of any kind due to the Beneficiary, once the latter has been duly notified thereof, regardless of the reason, without prejudice to any agreement by the Parties on payment by instalments.

#### Other provisions

- 18.8. The repayment under Article 18.5 of these general conditions or the offsetting under Article 18.7 of these general conditions correspond to payment of the balance.
- 18.9. Bank charges incurred by the repayment of amounts due to Expertise France shall be borne entirely by the Beneficiary.
- 18.10. The guarantee securing the pre-financing may be invoked in order to repay any amount owed by the Beneficiary, whereby the guarantor may not delay payment nor raise objections for any reason whatsoever.

- 18.11. Without prejudice to the rights and prerogatives of Expertise France, if necessary the Donor may proceed with recovery on its own behalf, by any means whatsoever.