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Zelena ekonomija za razvoj regiona



GENERAL CONDITIONS

applicable to grant contracts

The term "Coordinator" refers to the Beneficiary identified as the Coordinator in the Special Conditions.

The term "Beneficiary(ies)" refers collectively to all Beneficiaries, including the Coordinator, of the Project. When there is only one Beneficiary of the Project, the terms Beneficiary(ies) and Coordinator should both be understood as referring to the only Beneficiary of the Project.

The term "party(ies) to this Contract" refers to the party signatory of this Contract (i.e. the Coordinator and the Contracting Authority).

All references to "days" in this Contract are to calendar days, unless otherwise specified



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FORS
MONTENEGRO
Foundation for the Development
of Northern Montenegro

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GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE 1 – GENERAL PROVISIONS

General principles

1.1 The Coordinator and the Contracting Authority are the only parties to this Contract.

1.2 This Contract and the payments attached to it may not be assigned to a third party in any manner whatsoever without the prior written consent of the Contracting Authority.

Data protection

1.3 Any personal data will be processed solely for the purposes of the performance, management and monitoring of this Contract by the Contracting Authority and may also be passed to the bodies charged with monitoring or inspection tasks under European Union law. Beneficiaries will have the right of access to their personal data and the right to rectify any such data. If the Beneficiary(ies) have any queries concerning the processing of personal data, they shall address them to the Contracting Authority. The Beneficiary(ies) will have right of recourse at any time to the European Data Protection Supervisor.

1.4 The Beneficiary(ies) shall limit access and use of personal data to that strictly necessary for the performance, management and monitoring of this Contract and shall adopt all appropriate technical and organisational security measures necessary to preserve the strictest confidentiality and limit access to this data.

Role of the Beneficiary(ies)

1.5 The Beneficiary(ies) shall:

- a) carry out the Project taking all necessary and reasonable measures to ensure that the Project is carried out in accordance with the Description of the Project in Annex I and the terms and conditions of this Contract. To this purpose, the Beneficiary(ies) shall implement the Project with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field;
- b) be responsible for complying with any obligation incumbent on them from this Contract jointly or individually;
- c) forward to the Coordinator the data needed to draw up the reports and other information or documents required by this Contract and the Annexes thereto, as well as any information needed in the event of audits, checks, monitoring or evaluations, as described in Article 16;
- d) ensure that all information to be provided and requests made to the Contracting Authority are sent via the Coordinator.

1.6 The Coordinator shall:

- a) be responsible for the implementation of the Project in accordance with this Contract;





- b) be responsible for supplying all documents and information to the Contracting Authority which may be required under this Contract, in particular in relation to the narrative and financial reports and the requests for payment. Where information from the Beneficiary(ies) is required, the Coordinator shall be responsible for obtaining, verifying and consolidating this information before passing it on to the Contracting Authority;
- c) inform the Contracting Authority of any event likely to affect or delay the implementation of the Action;
- d) inform the Contracting Authority of any changes related to legal, financial, technical and organisational situation and of any change in the name, address or a legal representative of any of the beneficiaries;
- e) have full financial responsibility for ensuring that the Project is implemented in accordance with this Contract;
- f) be the sole recipient of the payments of the Contracting Authority;
- g) be responsible in the event of audits, checks, monitoring or evaluations, as described in Article 16 for providing all the necessary documents, including the accounts of the Beneficiary(ies), copies of the most relevant supporting documents and signed copies of any contract concluded according to Article 10;
- h) be the only intermediary for all communications between the Beneficiary(ies) and the Contracting Authority and the only entity in charge of the communication with the Contracting Authority;
- i) not delegate any, or part of, these tasks to the Beneficiary(ies) or other entities.

ARTICLE 2 – OBLIGATION TO PROVIDE FINANCIAL AND NARRATIVE REPORTS

2.1 The Coordinator shall provide the Contracting Authority with all required information on the implementation of the Project in the form of narrative and financial reports as well as in the form of the reports on specific project activities if requested by the Contracting Authority.

2.2 The narrative report shall describe the implementation of the Project according to the activities envisaged, difficulties encountered and measures taken to overcome problems, eventual changes introduced, as well as the degree of achievement of its results as measured by corresponding indicators. The report shall be laid out in such a way as to allow monitoring of the objective(s), the means envisaged or employed and the budget details for the Project. The level of detail in any report should match that of the Description of the Project and of the Budget for the Project.

2.3 These reports shall:

- a) cover the Project as a whole;
- b) consist of a narrative and a financial report drafted using the templates provided in Annex V;
- c) provide a full account of all aspects of the Project's implementation for the period covered, including the qualitative and quantitative information needed to demonstrate the fulfilment of the conditions for reimbursement established in this Contract;
- d) include the current results within an updated table based on the logical framework matrix including the results achieved by the Project as measured by their corresponding indicators; agreed baselines and targets, and relevant sources of verification;
- e) determine if the intervention logic is still valid and propose any relevant modification including regarding the logical framework matrix;
- f) be drafted in the euros and in the Montenegrin language;
- g) include any update on the communication plan as provided by Article 6.2;





h) include any relevant reports, publications, press releases and updates and other information related to the Project.

2.4 Additionally the final report shall:

- a) cover any period not covered by the previous reports;
- b) include the proofs of the transfers of ownership as referred to in Article 7.5;
- c) be drawn up and submitted in the local language and in English.

2.5 The Special Conditions may set out additional reporting requirements.

2.6. The Contracting Authority may request additional information at any time. The Coordinator shall provide this information within 15 days of the request, in the language of the Contract.

2.7. Reports shall be submitted with the payment requests, according to Article 15. If the Coordinator fails to provide any report or fails to provide any additional information requested by the Contracting Authority within the set deadline without an acceptable and written explanation of the reasons, the Contracting Authority may terminate this Contract according to Article 12.

ARTICLE 3 - LIABILITY

3.1 The Contracting Authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary(ies) while the Project is being carried out or as a consequence of the Project. The Contracting Authority cannot, therefore, accept any claim for compensation or increases in payment in connection with such damage or injury.

3.2. The Beneficiary(ies) shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the Project is being carried out or as a consequence of the Project. The Beneficiary(ies) shall discharge the Contracting Authority of all liability arising from any claim or action brought as a result of an infringement of rules or regulations by the Beneficiary(ies) or the Beneficiary(ies)'s employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights. For the purpose of this Article employees of the Beneficiary(ies) shall be considered third parties.

ARTICLE 4 – CONFLICT OF INTERESTS AND GOOD CONDUCT

4.1 The Beneficiary(ies) shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of this Contract. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

4.2. Any conflict of interests which may arise during performance of this Contract must be notified in writing to the Contracting Authority without delay. In the event of such conflict, the Coordinator shall immediately take all necessary steps to resolve it.

4.3. The Contracting Authority reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken if necessary.



4.4. The Beneficiary(ies) shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under this Contract, the Beneficiary(ies) shall replace, immediately and without compensation from the Contracting Authority, any member of its staff in such a situation.

4.5. The Beneficiary(ies) shall respect human rights and applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards.

ARTICLE 5 – CONFIDENTIALITY

5.1 Subject to Article 16, the Contracting Authority and the Beneficiary(ies) undertake to preserve the confidentiality of any information, notwithstanding its form, disclosed in writing or orally in relation to the implementation of this Contract and identified in writing as confidential until at least 5 years after the payment of the balance.

5.2. The Beneficiary(ies) shall not use confidential information for any aim other than fulfilling their obligations under this Contract unless otherwise agreed with the Contracting Authority.

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

ARTICLE 6 - VISIBILITY

6.1 Unless the European Commission and/or the Contracting Authority agrees or requests otherwise, the Beneficiary(ies) shall take all necessary steps to publicise the fact that the European Union has financed the Project. Such measures shall comply with the Communication and Visibility Manual for European Union External Actions laid down and published by the European Commission, that can be found at: https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en (version of 2010 and the version of 2018) or with any other guidelines agreed between the parties to this Contract.

6.2. The Coordinator shall submit a communication plan for the approval of the European Commission and report on its implementation in accordance with Article 2.

6.3. In particular, the Beneficiary(ies) shall mention the Project and the European Union's financial contribution, as well as that it is funded within the project *GEAR – Green Economy for Advanced Region*, in information given to the final recipients of the Project, in its internal and annual reports, and in any dealings with the media. It shall display the European Union logo wherever appropriate.

6.4 Any notice or publication by the Beneficiary(ies) concerning the Project, including those given at conferences or seminars, shall specify that the Project has received European Union funding. Any publication by the Beneficiary(ies), in whatever form and by whatever medium, including the internet, shall include the following statement: "This document has been produced





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with the financial assistance of the European Union. The contents of this document are the sole responsibility of < Beneficiary(ies)'s name > and can under no circumstances be regarded as reflecting the position of the European Union and FORS Montenegro.'

6.5. The Beneficiary(ies) authorises the Contracting Authority and the European Commission (where it is not the Contracting Authority) to publish its name and address, nationality, the purpose of the grant, duration and location as well as the maximum amount of the grant and the rate of funding of the Project's costs, as laid down in Article 3 of the Special Conditions. Derogation from publication of this information may be granted if it could endanger the Beneficiary(ies) or harm their interests.

ARTICLE 7 – OWNERSHIP/USE OF RESULTS AND ASSETS

7.1 Unless otherwise stipulated in the Special Conditions, ownership of, and title and intellectual and industrial property rights to, the Project's results, reports and other documents relating to it will be vested in the Beneficiary(ies).

7.2. Without prejudice to Article 7.1, the Beneficiary(ies) grant the Contracting Authority (and the European Commission where it is not this Contracting Authority) the right to use freely and as it sees fit, and in particular, to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the Project whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.

7.3. The Beneficiary(ies) shall ensure that it has all rights to use any pre-existing intellectual property rights necessary to implement this Contract.

7.4. In case natural, recognizable persons are depicted in a photograph or film, the Coordinator shall, in the final report to the Contracting Authority, submit a statement of these persons giving their permissions for the described use of their images. The above does not refer to photographs taken or films shot in public places where random members of the public are identifiable only hypothetically and to public persons acting in their public activities.

7.5. Unless otherwise clearly specified in the Description of the Project in Annex I, the equipment, vehicles and supplies paid for by the Budget for the Project shall be transferred to the final beneficiaries of the Project, at the latest when submitting the final report.

If there are no final beneficiaries of the Project to whom the equipment, vehicles and supplies can be transferred, the Beneficiary(ies) may transfer these items to:

- local authorities
- local Beneficiary(ies)
- another action funded by the European Union
- or, exceptionally, retain ownership of these items.

In such cases, the Coordinator shall submit a justified written request for authorisation to the Contracting Authority, with an inventory listing the items concerned and a proposal concerning their use, in due time and at the latest with the submission of the final report.

In no event may the end use jeopardize the sustainability of the Project or result in a profit for the Beneficiary(ies).





7.6 Copies of the proofs of transfer of any equipment the Beneficiary submits attached to the final report.

ARTICLE 8 – EVALUATION/MONITORING OF THE PROJECT

8.1. The Coordinator shall be obliged to enable monitoring of the implementation of the Project to the Contracting Authority and enables them the insight into the documents and information necessary for monitoring and evaluation.

8.2 If the European Commission carries out an interim or ex post evaluation or a monitoring mission, the Coordinator shall undertake to provide it and/or the persons authorised by it with the documents or information necessary for the evaluation or monitoring mission. Representatives of the European Commission shall be invited to participate in the main monitoring and in the evaluation missions relating to the performance of the Project performed by the Beneficiary(ies).

8.2. If either the Beneficiary(ies) or the European Commission carries out or commissions an evaluation in the course of the Project, it shall provide the other with a copy of the evaluation report.

ARTICLE 9 – AMENDMENT OF THE CONTRACT

9.1 Any amendment to this Contract, including the annexes thereto, shall be set out in writing. This Contract can be modified only during its execution period.

9.2. The amendment may not have the purpose or the effect of making changes to this Contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 3.2 of the Special Conditions may not be increased.

9.3 The amendments to the budget which involve a variation of more than 25% (in relation to the smaller budget heading and compared to the original budget or the latest budget as modified by addendum) as well as the amendments that can affect the main purpose of the Project, have to be set out in writing and within the addendum to the Contract. The requests for the above amendments have to be sent to the Contracting Authority for approval at least 45 days before the date on which the amendments should enter into force.

Changes of address or bank account shall be notified in writing by the Coordinator to the Contracting Authority.

9.4 Where the amendments to the Budget or Description of the Project do not affect the basic purpose of the Project and do not require signing of an addendum to the contract, the amendments can be done involving transfers between items within the same main budget heading including cancellation or introduction of an item; or a transfer between main budget headings involving a variation of 25% or less of the amount originally entered (or as modified by addendum). The percentage of 25% is calculated compared to the smaller budget heading and the original budget (or as modified by addendum to the Contract).

The above amendments have to be sent in writing for the Approval to the Contracting Authority at least 15 days before the day on which the amendment should enter into force.





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ARTICLE 10 – IMPLEMENTATION

Implementation contracts

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10.1 If the Beneficiary(ies) have to conclude implementation contracts with contractors in order to carry out the Project, these may only cover a limited portion of the Project and shall respect the contract-award rules and rules of nationality and origin set out in the Practical Guide for Contract Procedures for EU External Actions available at <http://ec.europa.eu/europeaid/prag/previousVersions.do> (version 2016.0).

10.2. To the extent relevant, the Beneficiary(ies) shall ensure that the conditions applicable to them under Articles 3, 4, 6 and 16 of these General Conditions are also applicable to contractors awarded an implementation contract.

10.3. The Coordinator shall provide in its report to the Contracting Authority a comprehensive and detailed report on the award and implementation of the contracts awarded under Article 10.1, in accordance with the reporting requirements in section 3 (paragraph 3.7) of Annex V.

Financial support to third parties

10.4 Financial support to third parties is not eligible.

ARTICLE 11 – EXTENSION AND SUSPENSION

11.1 The Coordinator shall inform the Contracting Authority without delay of any circumstances likely to hamper or delay the implementation of the Project. The Coordinator may request an extension of the Project's implementation period as laid down in Article 2 of the Special Conditions in accordance with Article 9 of these General Conditions. The request shall be accompanied by all the supporting evidence needed for its appraisal

Suspension by the Coordinator

11.2 The Coordinator may suspend implementation of the Project, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. The Coordinator shall inform the Contracting Authority without delay, stating the nature, probable duration and foreseeable effects of the suspension.

11.3. The Coordinator or the Contracting Authority may then terminate this Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow, informing the Contracting Authority accordingly.

Suspension by the Contracting Authority

11.4 The Contracting Authority may request the Beneficiary(ies) to suspend implementation of the Project, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. To this purpose, the Contracting Authority shall inform the Coordinator stating the nature and probable duration of the suspension.





11.5. The Coordinator or the Contracting Authority may then terminate this Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow and after having obtained the approval of the Contracting Authority.

11.6. The Contracting Authority may also suspend this Contract or the participation of a Beneficiary(ies) in this Contract if the Contracting Authority has evidence that, or if, for objective and well justified reasons, the Contracting Authority deems necessary to verify whether presumably:

- a) the grant award procedure or the implementation of the Project have been subject to substantial errors, irregularities or fraud;
- b) the Beneficiary(ies) have breached any substantial obligation under this Contract.

11.7. The Coordinator shall provide any requested information, clarification or document within 30 days of receipt of the requests sent by the Contracting authority. If, notwithstanding the information, clarification or document provided by the Coordinator, the award procedure or the implementation of the grant prove to have been subject to substantial errors, irregularities, fraud, or breach of obligations, then the Contracting Authority may terminate this Contract according to Article 12(2) h.

Force majeure

11.8 The term force majeure, as used herein covers any unforeseeable events, not within the control of either party to this Contract and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosion. A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspending funding under this Contract.

11.9. The Beneficiary(ies) shall not be held in breach of its contractual obligations if it is prevented from fulfilling them by circumstances of force majeure.

Extension of the implementation period following a suspension

In case of suspension according to Articles 11.2, 11.4 and 11.6, 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 implementing conditions.

ARTICLE 12 – TERMINATION OF THE CONTRACT

Termination in case of force majeure





12.1 In the cases foreseen in Article 11.2 and 11.4, if the Coordinator or the Contracting Authority believes that this Contract can no longer be executed effectively or appropriately, it shall duly consult the other. Failing agreement on a solution, the Coordinator or the Contracting Authority may terminate this Contract by serving two months written notice, without being required to pay indemnity.

Termination by the Contracting Authority

12.2 Without prejudice to Article 12.1, in the following circumstances the Contracting Authority may, after having duly consulted the Coordinator, terminate this Contract or the participation of any Beneficiary(ies) in this Contract without any indemnity on its part when:

- a) the Coordinator fails, without justification, to fulfil any substantial obligation incumbent on them individually or collectively by this Contract and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of receipt of the letter;
- b) the Coordinator is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulations relevant to the Coordinator;
- c) the Coordinator or any related entity or person, have been found guilty of an offence concerning their professional conduct proven by any means;
- d) it has been established by a final judgment or a final administrative decision or by proof in possession of the Contracting Authority that the Coordinator has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or has committed an irregularity;
- e) a change to the Coordinator's legal, financial, technical, organisational or ownership situation or the termination of the participation of the Coordinator substantially affects the implementation of this Contract or calls into question the decision awarding the grant;
- f) the Coordinator or any related person, are guilty of misrepresentation in supplying the information required in the award procedure or in the implementation of the Project or fail to supply – or fail to supply within the deadlines set under this Contract - any information related to the Project required by the Contracting Authority;
- g) the Coordinator has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;
- h) the Contracting Authority has evidence that the Coordinator, or any related entity or person, has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Project;
- i) the Coordinator is subject to an administrative penalty referred to in Article 12.4;



- j) the Contracting Authority has evidence that a Beneficiary(ies) is subject to a conflict of interests;
- k) the European Commission has evidence that the Coordinator has committed systemic or recurrent errors or irregularities, fraud, or serious breach of obligations under other grants financed by the European Union and awarded to the Coordinator under similar conditions, provided that those errors, irregularities, fraud or serious breach of obligations have a material impact on this grant.

The cases of termination under points (b), (c), (d), (h), (j) and (k) may refer also to persons who are members of the administrative, management or supervisory body of the Coordinator and/or to persons having powers of representation, decision or control with regard to the Coordinator.

Termination of a Beneficiary(ies) participation by the Coordinator

12.3. In duly justified cases, the participation of a Beneficiary(ies) in this Contract may be also terminated by the Coordinator. To this purpose, the Coordinator shall communicate to the Contracting Authority the reasons for the termination of its participation and the date on which the termination shall take effect, as well as a proposal on the reallocation of the tasks of the Beneficiary(ies) whose participation is terminated, or on its possible replacement. The proposal shall be sent in good time before the termination is due to take effect. If the Contracting Authority agrees, the Contract shall be amended accordingly in conformity with Article 9.

End date

12.4. The payment obligations of the European Union under this Contract shall end 18 months after the implementation period laid down in Article 2 of the Special Conditions, unless this Contract is terminated according to Article 12.

The Contracting Authority shall postpone this end date, so as to be able to fulfil its payment obligations, in all cases where the Coordinator has submitted a payment request in accordance with contractual provisions or, in case of dispute, until completion of the dispute settlement procedure provided for in Article 13. The Contracting Authority shall notify the Coordinator of any postponement of the end date.

12.5. This Contract will be terminated automatically if it has not given rise to any payment by the Contracting Authority within two years of its signature.

Effects of Termination

12.6 Upon termination of this Contract the Coordinator shall take all immediate steps to bring the Project to a close in a prompt and orderly manner and to reduce further expenditure to a minimum.

Without prejudice to Article 14, the Coordinator shall be entitled to payment only for the part of the Project carried out, excluding costs relating to current commitments that are due to be executed after termination.

To this purpose, the Coordinator shall introduce a payment request to the Contracting Authority





within the time limit set by Article 15.2 starting from the date of termination.

In the event of termination according to Article 12.1, the Contracting Authority may agree to reimburse the unavoidable residual expenditures incurred during the notice period, provided, the first paragraph of this Article 12.6 has been properly executed.

In the cases of termination foreseen in Article 12.2 a), c), d), f), h) and k) the Contracting Authority may, after having properly consulted the Coordinator and depending on the gravity of the failings, request full or partial repayment of amounts unduly paid for the Project.

Administrative sanctions

12.7 Without prejudice to the application of other remedies laid down in the Contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after an adversarial procedure, upon the Beneficiary(ies) who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has been found in serious breach of its contractual obligations. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;

b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years;

12.8 In the situations mentioned in Article 12.7, in addition or in alternative to the sanction of exclusion, the Beneficiary(ies) may also be subject to financial penalties representing 2-10% of the contract value.

12.9 Where the Contracting Authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the Beneficiary(ies).

12.10 The abovementioned administrative sanctions may also be imposed to persons who are members of the administrative, management or supervisory body of the beneficiary(ies), to persons having powers of representation, decision or control with regard to the beneficiary(ies).

ARTICLE 13 – APPLICABLE LAW AND DISPUTE SETTLEMENT

13.1 This Contract shall be governed by the law of the country of the Contracting Authority.

13.2 Both parties to this Contract shall do everything possible to settle amicably any dispute arising between them during the implementation of this Contract. To that end, they shall communicate their positions and any solution that they consider possible in writing, and meet each other at either's request.

The parties to this Contract shall reply to a request sent for an amicable settlement within 30 days.



13.3 In the event of failure to reach an amicable agreement, each party to this Contract may submit the dispute to the competent court in Montenegro.

FINANCIAL PROVISIONS

ARTICLE 14 – ELIGIBLE COSTS

Cost eligibility criteria

14.1 Eligible costs are actual costs incurred by the Coordinator 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:
 - costs relating to services and works shall relate to activities performed during the implementation period. Costs relating to supplies shall relate to delivery and installation of items during the implementation period. Signature of a contract, 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.
 - costs incurred should be paid before the 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.
- b) they are indicated in the estimated overall budget for the Project;
- c) they are necessary for the implementation of the Project;
- d) they are identifiable and verifiable, in particular being recorded in the accounting records of the Coordinator and determined according to the accounting standards and the usual cost accounting practices applicable to the Coordinator;
- e) they comply with the requirements of applicable tax and social legislation;
- f) they are reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

Eligible direct costs

14.2 Subject to Article 14.1, the following direct costs of the Coordinator shall be eligible:

- a) the cost of staff assigned to the Project, corresponding to actual gross salaries including net amounts and all remuneration-related costs prescribed by the law; the overall costs of salaries shall not exceed those normally borne by the Coordinator;
- b) travel and subsistence costs for staff and other persons taking part in the Project, provided they do not exceed those normally borne by the Coordinator according to the rules and regulations applicable in Montenegro;





- c) purchase costs for equipment (new) and supplies specifically dedicated to the purposes of the project, provided that ownership is transferred at the end of the Project when required in Article 7.5;
- d) costs of consumables;
- e) costs of service, supply and work contracts awarded by Coordinator for the purposes of the Project;
- f) costs of dissemination of information, translation, reproduction, etc.) including financial service costs in particular the cost of transfers of funds;
- g) duties, taxes and charges, including VAT, paid and not recoverable by the Beneficiary(ies), unless otherwise provided in the Special Conditions.

In kind contributions

14.3 Any contributions in kind, do not represent actual expenditure and are not eligible costs.

Non-eligible costs

14.4 The following costs shall not be considered eligible:

- a) debts and debt service charges (interest);
- b) provisions for losses, debts or potential future liabilities;
- c) costs declared by the Coordinator and financed by another project or work programme receiving a European Union grant (including through the European Development Fund);
- d) purchases of land or buildings;
- e) currency exchange losses;
- f) credits to third parties;
- g) in kind contributions.

ARTICLE 15 – PAYMENT AND SUBMISSION OF REPORTS

Payment

15.1 The Contracting Authority shall make payments to the Coordinator after the approval of the eligible costs incurred during the specific reporting period in accordance with articles 15.2, 15.3 and 15.4.

Submission of reports and payment

15.2 The Coordinator shall submit the narrative and financial reports on the activities implemented and the costs incurred which cover each two months of project implementation. The reports shall be submitted no later than 15 days following the end of the reporting period. The Coordinator shall submit the payment requests together with the reports, in the amount of the costs incurred, as well as the appropriate proofs (contracts, pre-invoices, invoices, etc.) that the costs have been incurred.

If the payment request is justified, and in accordance with the narrative and financial report, the Contracting Authority will make the payment to the Coordinator within 10 days from the day of





the approval of the report.

15.3 Coordinator shall submit the final report (narrative and financial) covering the whole period of project implementation, to the Contracting Authority no later than 30 after the implementation period as defined in Article 2 of the Special Conditions. Together with the report, the Coordinator shall submit the payment request in the amount of the costs incurred during the period which has not been covered by previous payment requests.

With the narrative report, the Coordinator shall submit the supporting annexes for each of the activities implemented (photos, lists of participants of meetings and events, agendas, publications, promotional items, newspaper articles, TV and audio recordings, etc).

With the financial report, the Coordinator shall submit a detailed list of expenditures and proofs of the costs incurred (copies of the contracts, pay slips, pre-invoices, invoices, deposit slips, bank statements).

Detailed presentation of expenditures shall be supported by the Declaration of Honour by the Coordinator that the information in the payment request are complete, reliable and true and that the determined expenditures have been incurred and considered eligible in accordance with this Contract.

15.4 Upon the approval of the final report the Contracting Authority shall make payment in accordance with the payment request submitted.

Suspension of the period for payments

15.5 The time-limits for payments may be suspended by the Contracting Authority if:

- a) the amount indicated in its request for payment is not due, or;
- b) proper supporting documents have not been supplied, or;
- c) clarifications, modifications or additional information to the narrative or financial reports are needed, or;
- d) there are doubts on the eligibility of expenditure and it is necessary to carry out additional checks, including on-the-spot checks to make sure that the expenditure is eligible, or;
- e) it is necessary to verify whether the Coordinator has breached any substantial obligations under this Contract, or;
- f) the visibility obligations set out in Article 6 are not complied with.

The suspension of the time-limits for payments starts when the above notification is sent to the Coordinator. The time-limit starts running again on the date on which a correctly formulated request for payment is recorded. The Coordinator shall provide any requested information, clarification or document within 10 days of the request.

15.6 If, notwithstanding the information, clarification or document provided by the Coordinator, the payment request is still inadmissible, or if the award procedure or the implementation of the grant proves to have been subject to substantial errors, irregularities, fraud, or breach of obligations, then the Contracting Authority may refuse to proceed further with payments and may, in the cases foreseen in Article 12, terminate accordingly this Contract.

15.7 The Contracting Authority may also suspend payments as a precautionary measure without prior notice.



Rules for currency conversion

15.8 The Contracting Authority shall make payments to the Coordinator to the bank account referred to in the financial identification form in Annex E, which allows the identification of the funds paid by the Contracting Authority. The Contracting Authority shall make payments in the currency set in the Special Conditions.

15.9 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 Coordinator's applicable legislation and applicable accounting standards. In such case and for the purpose of reporting, conversion into the currency set in the Special Conditions shall be made using the rate of exchange at which each Contracting Authority's contribution was recorded in the Coordinator's accounts, unless otherwise provided for in the Special Conditions. If at the end of the Project, a part of the expenses is pre-financed by the Coordinator (or by other donors), the conversion rate to be applied to this balance is the one set in the Special Condition according to the Coordinator's usual accounting practice. If no specific provision is foreseen in the Special Conditions, the exchange rate of the last instalment received from the Contracting Authority will be applied.

15.10. Unless otherwise provided for in the Special Conditions, costs incurred in other currencies than the one used in the Coordinator's accounts for the Project shall be converted according to its usual accounting practices, provided they respect the following basic requirements: (i) they are written down as an accounting rule, i.e. they are a standard practice of the Coordinator, (ii) they are applied consistently, (iii) they give equal treatment to all types of transactions and funding sources, (iv) the system can be demonstrated and the exchange rates are easily accessible for verifications.

In the event of an exceptional exchange-rate fluctuation, the Parties shall consult each other with a view to amending the Project in order to lessen the impact of such a fluctuation. Where necessary, the Contracting Authority may take additional measures such as terminating the Contract.

ARTICLE 16 – ACCOUNTS AND TECHNICAL AND FINANCIAL CHECKS

Accounts

16.1 The Coordinator shall keep accurate and regular accounts of the implementation of the Project using an appropriate accounting and double-entry book-keeping system.

The accounts:

- a) shall comply with the accounting and bookkeeping policies and rules that apply in Montenegro;
- b) shall enable income and expenditure relating to the Project are easily traced, identified and verified.

16.2 The Coordinator shall ensure that any financial report can be properly and easily reconciled to the accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the Coordinator shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

Right of access





16.3 The Coordinator shall allow verifications to be carried out by the Contracting Authority, European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor authorised by the Contracting Authority. The Coordinator has to take all steps to facilitate their work.

16.4 The Coordinator shall allow the above entities to:

- a) access the sites and locations at which the Project is implemented;
- b) examine its accounting and information systems, documents and databases concerning the technical and financial management of the Project;
- c) take copies of documents;
- d) carry out on the-spot-checks;
- e) conduct a full audit on the basis of all accounting documents and any other document relevant to the financing of the Project.

16.5 Additionally, the European Anti-Fraud Office shall be allowed to carry out on-the-spot checks and inspections in accordance with the procedures laid down by the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

Where appropriate, the findings may lead to recovery by the European Commission.

16.6 Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors and to any external auditor authorised by the Contracting Authority carrying out verifications shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject.

Record keeping

16.7 The Beneficiary(ies) shall keep all records, accounting and supporting documents related to this Contract for five years following the payment of the balance and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim has been disposed of. They shall be easily accessible and filed so as to facilitate their examination and the Coordinator shall inform the Contracting Authority of their precise location.

16.8 All the supporting documents shall be available either in the original form, including in electronic form.

16.9 In addition to the reports mentioned in Article 2 and 15 of this Contract, the documents referred to in this Article include:

- a) Accounting records (computerised or manual) from the Coordinator's accounting system such as general ledger, sub-ledgers and payroll accounts, fixed assets registers and other relevant accounting information;
- b) Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;
- c) Proof of commitments such as contracts and order forms;
- d) Proof of delivery of services such as approved reports, time sheets (records of work hours spent on the project), transport tickets, proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates) etc;
- e) Proof of receipt of goods such as delivery slips from suppliers;



- f) Proof of completion of works, such as acceptance certificates;
- g) Proof of purchase such as invoices and receipts;
- h) Proof of payment such as bank statements, debit notices, proof of settlement by the contractor;
- i) Proof that taxes and/or VAT that have been paid cannot actually be reclaimed;
- j) For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;
- k) Staff and payroll records such as contracts, salary statements and *time sheets* (records of work hours), proof of payments of the salary broken down into gross salary, social security charges and net salary.

16.10 Failure to comply with the obligations set forth in Article 16.1 to 16.9 constitutes a case of breach of a substantial obligation under this Contract. In this case, the Contracting Authority may in particular suspend the Contract, payments or the time-limit for a payment, terminate the Contract and/or reduce the grant.

ARTICLE 17 – FINAL AMOUNT OF THE GRANT

Final amount

17.1 The grant may not exceed the maximum ceiling in Article 3.2 of the Special Conditions. If the eligible costs of the Project at the end of the Project are less than the estimated eligible costs as referred to in Article 3.1 of the Special Conditions, the grant and the final instalment will be reduced for the amount of ineligible costs.

17.2. In addition and without prejudice to its right to terminate this Contract pursuant to Article 12, if the Project is implemented poorly or partially - and therefore not in accordance with the Description of the Project in Annex I - or late, the Contracting Authority may, by a duly reasoned decision and after allowing the Coordinator to submit its observations, reduce the initial grant in line with the actual implementation of the Project and in accordance with the terms of this Contract. This applies as well with regards to the visibility obligations set out in Article 6.

No profit

17.3 The grant may not produce a profit for the Beneficiary(ies). Profit is defined as a surplus of the receipts over the eligible costs approved by the Contracting Authority when the request for payment of the balance is made.

17.4 Where the final amount of the grant determined in accordance with the Contract would result in a profit, it shall be reduced by the amount of the profit produced.

ARTICLE 18 - RECOVERY

Recovery

18.1 If any amount is unduly paid to the Coordinator, or if recovery is justified under the terms of this Contract, the Coordinator undertakes to repay the Contracting Authority these amounts.





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18.2. In particular, payments made do not preclude the possibility for the Contracting Authority to issue a recovery order following an expenditure verification report, an audit or further verification of the payment request.

18.3. If a verification reveals that the methods used by the Beneficiary(ies) to determine unit costs or lump sums are not compliant with the conditions established in this Contract, the Contracting Authority shall be entitled to reduce the final amount of the grant proportionately up to the amount of the unit costs or lump sums financing.

18.4. The Coordinator undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 45 days of the issuing of the debit note, the latter being the letter by which the Contracting Authority requests the amount owed by the Coordinator.

Interest on late payment

18.5 Should the Coordinator fail to make repayment within the deadline set by the Contracting Authority, the Contracting Authority may increase the amounts due by adding interest:

- a) at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;
- b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euros;

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the Contracting Authority, and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.

Offsetting

18.6 Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Coordinator, after informing it accordingly. This shall not affect the Parties' right to agree on payment in instalments.

Other provisions

18.7 Bank charges incurred by the repayment of amounts due to the Contracting Authority shall be borne entirely by the Coordinator.

18.9. The guarantee securing the prefinancing may be invoked in order to repay any amount owed by the Coordinator, and the guarantor shall not delay payment nor raise objections for any reason whatsoever.

18.10. Without prejudice to the prerogative of the Contracting Authority, if necessary, the European Union may, as donor, proceed itself to the recovery by any means.

