FINANCING AGREEMENT

between

THE EUROPEAN UNION

and

THE PACIFIC ISLANDS FORUM SECRETARIAT

Pacific – European Union Waste Management Programme
(PacWaste Plus)
FINANCING AGREEMENT

SPECIAL CONDITIONS

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

of the one part, and

The Pacific Islands Forum Secretariat (PIFS) represented by the regional authorising officer, hereinafter referred to as “the Partner”,

of the other part,

have agreed as follows:

Article 1 - Nature of the action

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

"Pacific- European Union Waste Management Programme (PacWaste Plus)"
FED/2017/039-899

This action is financed from the 11th European Development Fund under the following basic act: ACP-EU Partnership Agreement.

1.2. The total estimated cost of this action is EUR 17 000 000 and the maximum EU contribution to this action is set at EUR 17 000 000.00.

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

Article 2 – Execution period

2.1. The execution period of this Financing Agreement as defined in Article 15 of Annex II (General Conditions) shall commence on the entry into force of this Financing Agreement and end 90 months after this date.

2.2. The duration of the operational implementation phase is fixed at 66 months.

2.3. The duration of the closure phase is fixed at 24 months.

Article 3 – Addresses

June 2017
All communications concerning the implementation of this Financing Agreement shall be in writing, shall refer expressly to this action as identified in Article 1.1 of these Special Conditions and shall be sent to the following addresses:

a) **for the Commission**
   
   Delegation of the European Union for the Pacific,
   Level 6, TappooCity Complex
   Corner of Scott & Usher Streets,
   Private Mail Bag, GPO,
   Suva, Fiji.
   
   Email: Delegation-Fiji@eeas.europa.eu

b) **for the Partner**
   
   The EDF Regional Authorising Officer
   Secretary General of the Pacific Islands Forum Secretariat,
   Pacific Islands Forum Secretariat (PIFS),
   Private Mail bag,
   Suva, the Republic of Fiji

**Article 4 – OLAF contact point**

The contact point of the Partner having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF’s operational activities shall be PIFS Corporate Lawyer, Ms Nehla Basawaiya, nehlab@forumsec.org, +679 322 0254, Pacific Islands Forum Secretariat (PIFS), Private Mail bag, Suva, the Republic of Fiji.

**Article 5 - Annexes**

5.1. **This Financing Agreement is composed of:**

   (a) these Special Conditions;

   (b) Annex I: Technical and Administrative Provisions, detailing the objectives, expected results, activities, description of the budget-implementation tasks entrusted and budget of this Action;

   (c) Annex II: General Conditions;

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

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

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

6.1 Provisions of Article 20 and Article 21 of Annex II do not fall under the purview of PIFS' responsibility, but they shall remain under the competence of the Beneficiary host PIFS Member States. However, PIFS will facilitate the process.

6.2 Parts One and Two of Annex II are not applicable to this Financing Agreement.

6.3 Articles 18, 19, 25.3, 25.4 and 25.5 do not apply to those activities entrusted to an entity pursuant to Annex I under this Financing Agreement.

Article 7 – Entry into force

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

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

Name: Mr. Pierre Amilhat
Function: Director, Asia, Central Asia, Middle East/Gulf and Pacific Directorate-General for International Cooperation and Development
Signature:
Place: Suva, Fiji
Date: 09 FEB 2018

FOR THE PARTNER:

Name: Dame Meg Taylor
Function: Secretary General of the Pacific Regional Authorising Officer; Islands Forum Secretariat
Signature:
Place: Suva, Fiji
Date: 09 FEB 2018
### ANNEX 1
TECHNICAL AND ADMINISTRATIVE PROVISIONS (TAPS)

<table>
<thead>
<tr>
<th>1. Title/basic act/ CRIS number</th>
<th>Pacific – European Union Waste Management Programme (PacWaste Plus) CRIS number: FED/2017/039-899 financed under the 11th European Development Fund</th>
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<tbody>
<tr>
<td>2. Zone benefiting from the action/location</td>
<td>Pacific Region The action shall be carried out at the following location: 15 Pacific ACP countries.</td>
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<td>4. Sector of concentration/thematic area</td>
<td>RIP Pacific Priority 2.2: Sustainable management of waste</td>
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<td>5. Amounts concerned</td>
<td>Total estimated cost: EUR 17 million Total amount of 11th EDF contribution: EUR 17 million.</td>
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<td>6. Aid modality(ies) and implementation modality(ies)</td>
<td>Project modality: Indirect management with the Secretariat of the Pacific Regional Environment Programme (SPREP) through a PAGODA delegation agreement</td>
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<td>7 a) DAC code(s)</td>
<td>140 Water and Sanitation 40% - 14050; 410 Environmental Protection 20% - 41081,41082; 120 Health 20% - 12250, 12261; 114 Education 10% - 11430; 331 Trade 10% - 33120</td>
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<td>b) Main Delivery Channel</td>
<td>Secretariat of the Pacific Regional Environment Programme (SPREP) – 47097</td>
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<td>8. Markers (from CRIS)</td>
<td>General policy objective</td>
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[1]
<table>
<thead>
<tr>
<th>DAC form)</th>
<th>targeted</th>
<th>objective</th>
<th>objective</th>
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<tbody>
<tr>
<td>Participation development/good governance</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>Aid to environment</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>Gender equality (including Women In Development)</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>Trade Development</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>Reproductive, Maternal, Newborn and child health</td>
<td>X</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>RIO Convention markers</td>
<td>Not targeted</td>
<td>Significant objective</td>
<td>Main objective</td>
</tr>
<tr>
<td>Biological diversity</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
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<tr>
<td>Combat desertification</td>
<td>X</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Climate change mitigation</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>Climate change adaptation</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
</tbody>
</table>

### 9. Global Public Goods and Challenges (GPGC) thematic flagships
Consistent with Global Public Goods and Challenges (GPGC) thematic areas: sustainable management of ecosystems, climate change adaptation, enhanced and sustainable food security, and empowerment for better livelihoods.

### 10. SDGs
Main SDG Goals: 3, 6, 11, 12, 13, 14
Secondary SDG Goals: 5, 7, 8

**Summary**
The overall objective of the Pacific – European Union (EU) Waste Management Programme, referred to hereafter as PacWaste Plus or the Action, is to generate improved economic, social, health and environmental benefits for Pacific Members of African, Caribbean, and Pacific (ACP) states arising from stronger regional economic integration and the sustainable management of natural resources and the environment.
The specific objective is to ensure the safe and sustainable management of waste with due regard for the conservation of biodiversity, reduction of marine litter, health and wellbeing of Pacific island communities, and climate change mitigation and adaptation requirements, while applying a gender inclusive approach.

The four key result areas are: (i) Improved data collection, information sharing, and education and awareness; (ii) Policies and regulatory frameworks developed and implemented; (iii) Best practices, including enhanced private sector engagement and infrastructure development, implemented; and (iv) Human capacity enhanced.

These result areas have been developed and refined through extensive country consultation and will directly support the implementation of priority areas of the Pacific Regional Waste and Pollution Management Strategy 2016–2025 (Cleaner Pacific 2025).

PacWaste Plus will address both the cost effective and sustainable management of waste and pollution, as well as broader impacts including human health and wellbeing, gender equality, marine litter, climate change, disaster management, biodiversity conservation, and resource recovery. Priority waste streams include hazardous wastes (specifically asbestos, E-waste, and healthcare waste), solid wastes (specifically recyclables, organic waste, food packaging waste, plastic waste, disaster waste and bulky waste), and related aspects of wastewater and stormwater management.

The activities targeting solid wastes and related aspects of wastewater also represent a major marine debris action through reducing land-based sources of solid waste which contributes an estimated 70% to the total marine debris load globally. It will do this through implementing recommendations of the United Nations Environment Programme's Global Programme of Action (UNEP GPA) for the Protection of the Marine Environment from land-based Activities through reducing the movement of terrestrial sources of litter into the marine environment.

PacWaste Plus will also target components of United Nations Environment Assembly (UNEA) 1/6 Marine Plastic Debris and Microplastics as part of the overall programme focus on improved terrestrial management of solid waste and related aspects of wastewater including a focus on single use plastic bags through reduction (bans/levies/substitution), controls (collection, disposal and enforcement), and education activities.

PacWaste Plus brings together key organisations supporting the waste and pollution sector in the region, with the Secretariat of the Pacific Regional Environment Programme (SPREP) as the entrusted entity signing the Pagoda Delegation Agreement. The Secretariat of the Pacific Community (SPC) and the University of the South Pacific (USP) will be implementing partners contracted by SPREP.

PacWaste Plus has been designed using the rights-based approach toolbox in addressing its working principles. With robust links to the Sustainable Development Goals (SDGs), the Rio Convention Markers, and gender equality markers, PacWaste Plus will mainstream human rights and gender equality with the aim of enhancing accountability, participation,


transparency and non-discrimination at regional, national and community levels to improve the long-term sustainable management of pollution and waste. The Action is in line with the main objectives of the Agenda for Change\(^3\) such as poverty reduction, sustainable growth, and improving resilience to natural disasters and the consequences of climate change.

PacWaste Plus will have a clear gender response throughout its design, implementation and monitoring and will build resilience to the negative effects of climate change on women and girls, while developing the education, training, research, and capacity needed for the next generation of Pacific waste and pollution managers and decision makers to exercise their rights and duties, including increased accountability.

PacWaste Plus will build on past successes and will be an integral component of a co-ordinated multi-donor, multi-year effort to deliver improved waste and pollution management services, systems, and capacities to the Pacific region.

1. DESCRIPTION OF THE ACTION

1.1 Objectives/results

The overall objective of PacWaste Plus is to generate improved economic, social, health and environmental benefits for Pacific ACP states arising from stronger regional economic integration and the sustainable management of natural resources and the environment.

The specific objective is to ensure the safe and sustainable management of waste with due regard for the conservation of biodiversity, reduction of marine litter, health and wellbeing of Pacific island communities, and climate change mitigation and adaptation requirements, while applying a gender inclusive approach.

The four key result areas are: (i) Improved data collection, information sharing, and education and awareness; (ii) Policies and regulatory frameworks developed and implemented; (iii) Best practices, including enhanced private sector engagement and infrastructure development, implemented; and (iv) Human capacity enhanced.

These key result areas will include collaborative approaches at regional level and will be applied to the improved management of the following priority waste streams: at national level: hazardous wastes (specifically asbestos, E-waste and healthcare waste), solid wastes (specifically recyclables, organic waste, food packaging waste, plastic waste, disaster waste and bulky waste) and related aspects of wastewater. The key results will complement and synergise with existing/planned initiatives by different partners focusing on addressing marine based sources of waste and pollution.

The programme of work on these result areas and priority waste streams will build on past successes and also be an integral component of a co-ordinated multi-donor, multi-year effort to deliver improved waste and pollution management services, systems and capacities to the Pacific region. The programme will link with GPGC flagship initiatives through promoting good governance in the waste sectors, improving the waste sector contribution to the green

\(^3\)http://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX%3A52011DC0637&qid=1412922281378&from=EN
economy through pilot projects to recover raw materials, supporting the use of organic wastes and composts to improved food security, and working to mitigate impacts of marine litter.

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG Goals 3, 6, 11, 12, 13, 14 but also promotes progress towards Goals 5, 7, 8. This does not imply a commitment by the countries benefiting from this programme.

1.2 Main activities

Main activities envisaged, by result area, will be tailored and targeted towards the specific needs of clusters of Pacific ACP countries, while also taking into account economics of scale and distances. This same strategy of having both a regional and 'tailor-made' national approach (guided by baseline surveys and feasibility studies) proved very effective in the implementation of PacWaste. The main activities envisaged include:

**Result Area 1: Improved data collection, information sharing, and education and awareness**

(i) Collate and review existing data on waste and pollution at the regional and national level and identify key areas where further data needs to be collected to enable interventions to be prioritised. Further required data will be collected through regional and country level assessments through baseline surveys, consultations and research; (ii) Develop and maintain a regional WCP database that will act as a repository of data from any studies conducted on waste stockpiles, waste facilities, assessments of liquid waste, water quality and other relevant environmental data that can be used to support informed decision making; (iii) Implement routine data collection and reporting and create comprehensive country waste profiles for dissemination; (iv) Share information from community-based demonstration projects, disseminate case studies of Pacific best practices through regional exchange programmes, media and other outreach activities; (v) Develop a model regional communication plan to guide national delivery of education and awareness programmes; and (vi) Develop a practical research agenda and assist in identifying appropriate environmental standards for the region. These activities will be conducted at the regional and national level and allow tailored interventions to be developed in line with country circumstances which will improve impact and sustainability.

Baseline, CBA and feasibility studies, with review by an independent technical advisory panel, will be a core part of project administration and decision-making and will assist in needs based prioritisation, impact and potential for success. This 'tailor-made' approach, along with close coordination with other regional and major bilateral projects, will ensure effective use of PacWaste Plus resources.

**Result Area 2: Policies and regulatory frameworks developed and implemented**

(i) Assist in developing integrated policies covering environmental and socio-economic impacts with supporting legislation incorporating institutional arrangements for waste management; (ii) Assist in developing national policies, legislation and implementation strategies to improve service delivery, private sector engagement, and cost recovery of waste management activities; and (iii) Assist in developing mechanisms (such as national licencing and certification programmes) for waste management service providers to track and capture relevant activities in the regional database.
These activities will be conducted primarily at the national level and are intended to strengthen institutional capacities of regional organisations and national authorities in delivering waste and pollution management improvements that can be sustained after completion of this regional waste programme.

**Result Area 3: Best practices, including enhanced private sector engagement and infrastructure development, implemented**

(i) Implement prevention and reduction programmes that promote schemes to minimise wastes arising from imported products, donated relief supplies, and nearly expiring perishable products; (ii) Implement preferred sustainable financing options such as polluter pay programmes for difficult waste streams and collected wastes, and extended producer responsibility programmes for imported goods; (iii) Implement feasible resource recovery initiatives with private sector involvement including establishing networks for recyclable commodities, and promotion of pilot and small-scale organic waste recycling; (iv) Develop programmes to dispose of legacy wastes and remediate contaminated sites; (v) Improve and/or construct appropriate small scale waste management infrastructure for storage, processing, treatment and disposal with suitable equipment, operation and maintenance capacity including occupational health and safety protocols and sustainable financing mechanisms; (vi) Undertake environmental monitoring and reporting programmes with focus on point source monitoring; (vii) Develop and implement agreements and incentives for private sector participation in waste management; Examine introduction of EPR schemes for reducing marine litter; (viii) Support exporting of some solid wastes from atoll nations to (regional) recycling hubs, taking into account the analysis, results and recommendations of the PRIF study on recycling; and (ix) Develop programmes to build national and local capacities in designing bankable projects that can then be supported through IFF or the Green Climate Fund (GCF).

These activities will be conducted at both the regional and national level and will promote sustainable best practices through strong partnership between the public and the private sectors. Moreover, these activities support the creation of an enabling environment for private sector involvement, effectively laying the foundation for future public/private partnerships. Foreseen infrastructure will be modest in scale and will be designed to support work already in place through other complementary projects such as PacWaste and JPRISM II.

**Result Area 4: Human capacity enhanced**

(i) Undertake national capacity needs assessment (against required competency levels) for integrated training on improved waste governance, management and enforcement; (ii) Conduct specialised national and regional capacity building on identified priority areas based on capacity needs assessment; (iii) Consider mainstreaming water management into primary and secondary education in suitable countries by using the Regional Environmental Centre Approach and expanding on the Cleaner Schools Project which has been successfully conducted in a number of countries with the support of IICA; (iv) Affiliate and collaborate with a regional university or educational institution offering waste management courses with competency-based assessments and hands-on modules towards accreditation; and (v) Promote capacity building exchanges among all SPREP members in the public and private sectors.
The skills of waste managers and practitioners in both the public and private sectors in the region are expected to be reinforced through these activities. These activities will be conducted at the regional and national level with competency based activities being offered through different modes and at different level targeting practical in field training, vocational and higher level waste management capacity building with some capacity building in-country and regionally.

A quota of places is reserved for women to participate in professional development training and other up-skilling opportunities implemented in the course of the project.

During the inception phase (6 months), several activities will be carried out such as: (i) A series of baseline studies to inform the detailed design and implementation of regional and tailored country level activities aligned with national priorities; (ii) Gender and Human Rights Based Adaptation (HRBA) surveys and analysis will allow specific interventions throughout the programme duration for each key result area to improve the opportunities for women, men and youth in the waste and pollution sector; (iii) A Technical Advisory Panel on Gender will be established; (iv) Environmental Impact Assessment where required. The project would also adopt the SPC-Regional Rights Resources Team (RRRT) approach utilising a PANEL approach (Participation, Accountability, Non-discrimination, Empowering, Links to Human Rights Conventions) and when relevant, national gender stocktakes would be undertaken; (iv) Finalisation of staff recruitment, and review of relevant institutional set-up.

1.3 Intervention logic

The programme follows clear intervention logic, based on problem analysis. In line with Cleaner Pacific 2025, the Action will support improved waste management and pollution management using a systematic and science-based management. Problems will be analysed at a regional level and the delivery of prioritised and targeted interventions will be tailored at the national level, but information, ideas and networks will be shared through regional collaboration. It will build capacity and awareness (which are both result areas) across the programme, and integrate these components into the other result areas which will collectively reduce the impacts of waste and pollution, improve resource recovery and financial management improve systems and infrastructure and by doing so create an enabling environment for enhanced private sector development. This would commence with baseline and related studies (CBA, feasibility studies, risk analysis, research) to prioritise PacWaste Plus followed by systems improvements, small scale physical interventions, regional collaboration, and awareness raising. The more detailed intervention logic is in the logframe in Appendix 1.

Sustainability will be addressed at two levels: sustainable economic development and sustainability of renewable natural resources. Sustaining programme results after implementation has proved challenging for some previous EDF regional projects, but the following approaches are envisaged:

- Cost recovery approaches will be expanded through institutional strengthening, capacity building and regional collaboration and could be expanded to include further cost recovery through licensing and penalty systems;
• Recovery of saleable natural resources, including recycled or repurposed wastes that are either exported or used nationally as repurposed materials, as well as resources recovered for agricultural or energy purposes;

• Securing suitable government budget allocations for ministries/other government entities;

• Fostering engagement around the concept of the circular economy, specifically with regard to the elements of this approach, such as PPP, private sector development (PSD) and small to medium enterprise (SME) development, that take the specific context and challenges faced by the Pacific region into account;

• Policy dialogue on waste, circular ecologies, climate change, agriculture and biodiversity

• Awarding and supporting self-help initiatives at the grassroots level;

• Ensuring stronger ownership by the partner countries through the active involvement of the partner countries in the Regional Steering Committee and the working group; and

• Increasing women’s empowerment and gender equality by applying a gender sensitive approach, ensuring the involvement of both women and men users, and reaching the needs of the most vulnerable.

2. IMPLEMENTATION

2.1 Implementation modalities

Indirect management with an international organization- PAGODA Delegation Agreement with SPREP

This action may be implemented in indirect management with the SPREP in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012 applicable by virtue of Article 17 of Regulation (EU) No 323/2015.

This implementation entails the signature of a Pagoda Delegation Agreement with the Secretariat of the Pacific Regional Environment Programme (SPREP). This implementation is justified because of the regional organisations technical expertise in the waste management and pollution control sector, demonstrated efficient management of previous EDF projects in the Pacific Region, which also secure local ownership.

The entrusted regional organisation would carry out the following budget-implementation tasks: launching calls for tenders (such as services, studies, trainings, technical expertise, equipment) and for proposals (to be defined at the inception phase); evaluation of tenders and proposals; award of contracts; concluding, monitoring and managing contracts; assessment and acceptance of deliverables; carrying out payments; recovering moneys due; and any other relevant aspects of the project management cycle of the project.

In addition, to the above-mentioned entrusted entity (SPREP), key governmental and nongovernmental partners have been pre-identified. Those implementing partners will be contracted in full compliance with SPREP pillar assessed contracting procedures. The following implementing partners will be involved in the action: the SPC, which is a primary
Council of Regional Organisations in the Pacific (CROP) agency dealing with the water sector in the Pacific, will bring considerable technical expertise in the related aspects of wastewater (storm water management, agricultural effluents, sewerage sludge management) in all four result areas; and the USP, main regional capacity-builder and only regional university with campuses in 12 of the Pacific ACPs, will bring both a wide geographical coverage and long term perspective in all four result areas, particularly in capacity building component (training, course development and research supervision), but also in data collection, research and analysis, application of best practices and awareness raising. Further entities could join later for ad-hoc activities on a needs basis; this will be further explored at the inception phase.

2.2 Scope of geographical eligibility for procurement and grants

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

The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 22(1)(b) of Annex IV to the ACP-EU Partnership Agreement on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.
2.3 Indicative budget

<table>
<thead>
<tr>
<th>2.3.1 – Indirect management with SPREP (Pagoda Delegation agreement)</th>
<th>EU contribution (amount in EUR)</th>
<th>Indicative third party contribution, in currency identified</th>
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<tbody>
<tr>
<td>Result Area 1 - improved data collection, information sharing, and education and awareness</td>
<td>Indicative allocation per Key Result Area: KRA 1: 2 900,000 EUR</td>
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<tr>
<td>Result Area 2 - Policies and regulatory frameworks developed and implemented</td>
<td>KRA 2: 1 350 000 EUR</td>
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<td>Result Area 3 - Best practices, including enhanced private sector engagement and infrastructure development, implemented</td>
<td>KRA 3: 6 850 000</td>
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<td>Result Area 4 - Human capacity enhanced</td>
<td>KRA 4: 2 600 000 EUR</td>
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<tr>
<td>Project management costs</td>
<td>2 800 000 EUR</td>
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<td>Subtotal Indirect management with SPREP</td>
<td>16 500 000.00 EUR</td>
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2.3.2 – Evaluation, 2.3.3 – Audit

<p>| | 400 000.00 EUR | NA |</p>
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<td>17 000 000.00 EUR</td>
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</table>

*Indicative budgets for SPC and USP contracted components are expected to be in the range of EUR 1-2 million for each entity (to be confirmed during the development of the Pacific Delegation Agreement and initial baseline studies)*
2.4 Organisational set-up and responsibilities

A programme steering committee will meet annually to review progress and provide overall guidance of the programme. It will comprise: the 15 Pacific National Authorising Officer (NAOs) of each PACP, the DMRO, representatives from the entrusted entities and main partners, and representatives from the EU. The position of Chair of the committee will rotate between beneficiary sub-regions. Other stakeholders may be invited to participate as observers to ensure coordination. Where possible, discussions on programme activities will be embedded in existing relevant national mechanisms to allow exchange of information from regional to national level and vice-versa.

In general, the activities of the programme will be integrated into the annual work programmes of the entrusted regional Organisation (SPREP) and the two second tier partners (SPC and USP), which are approved at their governing council meetings.

The day-to-day technical and financial management/administration will be the responsibility of the Project Manager, communications, operational and financial staff at SPREP, working with counterparts in SPC and USP (implementing partners). This team will be responsible for financial and narrative reporting as well as document management and preparation for audits in line with delegation agreement provisions. The team will provide technical support, where needed, for NGOs with accounting and acquittal of project funds.

A project coordination group will be established, comprising of the Project Manager and team based at SPREP (finance, communications and gender and human rights specialists); a nominated representative and alternate for each implementing agency and each CSO involved in the project; and representatives of the EU Delegation and DMRO. They will hold a face-to-face meeting at least twice a year; and will be in regular contact by email and video conference. The function of this group will be to provide technical oversight, ensure that planning and implementation of the project proceeds smoothly and that the work of the different partners is fully coordinated. The working group will draw on the expertise of the communications specialist to ensure that whole-of-project outcomes are well communicated and donor visibility is ensured. The gender and human rights specialist will ensure the prioritisation of these approaches. Decision making will generally be by consensus. In the event of a disagreement between implementing partners this will be referred in the first instance to the heads of the respective implementing entrusted Organisation. If they are also unable to reach agreement, the matter will be referred to the EU Delegation, whose decision will be binding. With due respect to the existing structures of the regional organisations involved in the programme, progress of the activities will be presented to their governing bodies and/or relevant technical bodies for information, with discussion open to all 15 PACPs. The EU will be invited to participate.

2.5 Performance monitoring and results reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner’s responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final
reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix (see Appendix 1). The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

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

The indicators for monitoring results listed in the logical framework will be drawn from active monitoring of the action by SPREP and the implementing partners (SPC and USP), which will be collected on a quarterly and annual basis by the partner organisations. Gender sensitive indicators will be applied for gender sensitive monitoring. The project will submit a quarterly progress reports (narrative only) and a single annual narrative and financial report for the programme – covering all result areas and project management – in line with the general and special conditions of the delegation agreement.

2.6 Evaluation

Having regard to the importance of the action, mid-term and final evaluations will be carried out for this action or its components via independent consultants contracted by the Commission, who will possess gender expertise so as to identify potential negative impacts on women and men and ensure that appropriate recommendations can be made.

The mid-term evaluation will be carried out following the second year of implementation of the action for problem solving and to provide any necessary changes in the programme.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that this will be the first comprehensive regional programme involving a range of implementing partners.

The Commission shall inform the implementing partner at least 2 months in advance of the dates foreseen for the evaluation missions. The implementing partners shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the Pacific ACP countries and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner countries and the Steering committee, jointly decide on the follow-up actions to be taken and adjustment necessary, including, if indicated, the reorientation of the project.
Indicatively, two contracts for evaluation services shall be concluded under a framework contract in 2019 and 2022.

2.7 Audit

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

Indicatively, two contracts for audit services shall be concluded under a framework contract in 2020 and 2023.

2.8 Communication and visibility

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

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation and supported by the budget indicated in section 2.3 above.

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

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

The communication and visibility aspects will be carried out under the Pagoda Delegation agreement concluded with SPRÉP.
APPENDIX 1 - INDICATIVE LOGFRAME MATRIX

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and will be updated during the implementation of PacWaste Plus. When it has not been possible to determine the outputs of an action at this formulation stage, intermediary processes/outcomes or have been presented and the outputs will be defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators will be disaggregated by sex whenever relevant.

<table>
<thead>
<tr>
<th>Results chain</th>
<th>Indicators</th>
<th>Baselines (incl. reference year)</th>
<th>Targets (incl. reference year)</th>
<th>Sources and means of verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall objective: Impact</td>
<td>1. Real GDP growth, (i) latest year and (ii) average over last 5 years**</td>
<td>1. 2.6% estimated for 2014</td>
<td>1. &gt;4% estimated increase by project end</td>
<td>1. ADB Pacific Economic Monitor</td>
<td>1. ADB Pacific Economic Monitor</td>
</tr>
<tr>
<td>3. Level of GFF released to the environment</td>
<td>3. To be determined by baseline</td>
<td>3. To be determined by baseline</td>
<td>3. Project reporting and Evaluation</td>
<td>3. Project reporting and Evaluation</td>
<td></td>
</tr>
<tr>
<td>4. Level of impact on human and environmental health</td>
<td>4. To be determined by baseline</td>
<td>4. To be determined by baseline</td>
<td>4. Project reporting and Evaluation</td>
<td>4. Project reporting and Evaluation</td>
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<tr>
<td>Specific objective(s):</td>
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<tr>
<td>Result Area 1:</td>
<td>1.1. Status of data on selected priority</td>
<td>1.1. Baseline</td>
<td>1.1. 8 Base line</td>
<td>1.1. Prioritised</td>
<td></td>
</tr>
<tr>
<td>1. Level of SDG indicator elements met for goals 3, 6, 11, 12, 13, 14, 5, 7 and 8*</td>
<td>1. Baseline: Year 1 of project and establishment of the Pacific Roadmap for the SDGs,</td>
<td>1. Target to be determined</td>
<td>1. SDG implementation verified in Project reporting and evaluation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Number of new green jobs created thanks to better management of waste disaggregated by gender</td>
<td>2. Baseline: Year 1 of project</td>
<td>2. Target: at least (to be determined) new green jobs created by end of the project (disaggregated by sex)</td>
<td>2. Reduced reliance on donation driven waste management and pollution control services verified through project reporting and evaluation</td>
<td></td>
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</tr>
<tr>
<td>3. Level of sustainable waste management achieved</td>
<td>3. Baseline: Year 1 of project</td>
<td>3. Target: to be determined</td>
<td>3. Improved waste management verified through project reporting and evaluation</td>
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</tbody>
</table>

* The SDG Road Map for the Pacific is currently still being developed, but elements of the following sub indicators have been identified as relevant: 3.9, 5.3, 6.3, 7.2/7.3, 8.3/8.4, 11.6/11.7, 12.4/12.5/12.6/12.8, 14.1/14.2. Further refinement of the LogFrame will occur as PacWaste Plus is further developed.
<table>
<thead>
<tr>
<th>Improved data collection, information sharing, and education and awareness</th>
<th>wastes, pollutants and polluting activities is available</th>
<th>surveys in place for 3 hazardous waste streams (asbestos, healthcare waste and E-Waste) to be conducted for the 5 remaining waste streams. Estimation in the reduction of GHG emissions through improved waste management including resource recovery.</th>
<th>sector surveys conducted</th>
<th>intervention locations endorsed by Project Steering Committee can be collected within the available project resources to complete a meaningful review of the status of national waste and pollution management</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2 Status of contemporary best practice options for the management of priority wastes and pollutants available (as necessary) for Pacific island conditions</td>
<td>1.2. Baseline Year 1 of project</td>
<td>1.2. Baseline sector surveys conducted</td>
<td>1.2. Best practice management interventions practices identified for the Pacific endorsed in reports by independent expert panels</td>
<td></td>
</tr>
<tr>
<td>1.3 No. of regional and national water and environmental quality monitoring programmes</td>
<td>1.3. Three national water quality monitoring programmes in place for 2014</td>
<td>1.3. Target of 6 in place by 2020</td>
<td>1.3. Regional and national water quality and wastewater monitoring data available</td>
<td></td>
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<tr>
<td>1.3. Government support for monitoring programmes maintained (country commitment)</td>
<td></td>
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<tr>
<td>1.4 Status of the Network (twinning) between similar Pacific island countries to share experiences and provide training</td>
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<tr>
<td>1.4 Ad hoc twinning established under PacWaste for 6 individual events</td>
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<tr>
<td>1.4 Target of 12 twinning events by 2021</td>
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<tr>
<td>1.4 Pacific Recyclers Network charter and terms of reference</td>
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<tr>
<td>1.4. Twinning programmes and networks established</td>
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<tr>
<td>1.5 Status of Network of Pacific Recyclers</td>
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<tr>
<td>1.5. Cleaner Pacific Round Table commits to 7 technical working groups in 2016 (forerunners of a recyclers Network)</td>
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<tr>
<td>1.5. Formal Network of Pacific Recyclers established by 2020</td>
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<tr>
<td>1.5 Recycler’s network meeting proceedings</td>
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<tr>
<td>1.5. Current recyclers interested in working together</td>
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<tr>
<td>1.6 Status of best practices and lessons learned</td>
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<tr>
<td>1.6.4 Regional events supported under the PacWaste project for best practices and lessons learnt 2016</td>
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<tr>
<td>1.6.8 Regional events for best practices and lessons learnt 2021</td>
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<tr>
<td>1.6 Project documents Monitoring reports and observation</td>
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<tr>
<td>1.6. Best practices are communicable</td>
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<tr>
<td>1.7 Establishment of the Women in Waste networking group</td>
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<tr>
<td>1.7. Baseline Year 1 of project</td>
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<tr>
<td>1.7 Women in Waste networking group established by 2020</td>
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<tr>
<td>1.7 Women in Waste TORs and network meeting proceedings</td>
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<td>1.8 WCP database; country WCP profiles; case studies; a model regional communication plan; a practical research</td>
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<tr>
<td>1.8.2 chemical and pollution inventories</td>
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<tr>
<td>1.8.3 chemical and pollution inventories (national) by</td>
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<tr>
<td>1.8. Project documents Monitoring reports and observation</td>
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<tr>
<td>Result Area 2: Policies and regulatory frameworks developed and implemented.</td>
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<td>---------------------------------------------------------------</td>
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<tr>
<td>2.1. Status of endorsement of new waste and pollutant management policies, strategies, legislation and regulations endorsed by Pacific island governments</td>
<td></td>
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<tr>
<td>2.1. currently: -9 for solid waste -7 for healthcare waste -6 for other hazardous waste -10 for liquid waste</td>
<td></td>
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<tr>
<td>2.1. 14 integrated waste and pollution strategies established what about legal acts / regulations</td>
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<tr>
<td>2.1. Waste and pollutant management policy, strategies, legislation and regulations endorsed by National authorities</td>
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<tr>
<td>2.1. National authorities make institutional changes/improvements</td>
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<tr>
<td>- Government commitment to waste and pollutant management continues</td>
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<tr>
<td>- Annual audits of national waste and pollutant management related activity</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Result Area 3: Best practices, including enhanced private sector engagement and infrastructure development.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1. Volume of private and Government investment (in financial terms) in sustainable waste management technologies</td>
</tr>
<tr>
<td>3.1. Insufficient data</td>
</tr>
<tr>
<td>3.1. Established after baseline study in Year 1</td>
</tr>
<tr>
<td>3.1. National waste management collection and recycling data</td>
</tr>
<tr>
<td>3.1. National government commitment to sustainable waste management continues</td>
</tr>
</tbody>
</table>

1.9. Documentation of success stories of women working in the waste management sector and in decision-making roles.

1.9. Baseline Year 1 of project

Project documents Monitoring, Communications and Visibility plan, reports and observation
### 3.2. Recycling and Resource Rate Improved

- **3.2. 47% waste recycling rate** (amount recycled, reused, returned/amount recyclable) in the Pacific (baseline: 2014)
- **3.2. 60% waste recycling rate** by end of project
- **3.2. Financial reports from national advanced recycling fee administrators**

### 3.3. Number of cases where appropriate environmental protocols (e.g. Environmental Impact Assessments (EIA)) are followed for development of waste management initiatives *

- **3.3. 18 National or Municipal Composting Programmes** (baseline: 2014)
- **3.3. Thirty national or Municipal Composting Programmes**
- **3.3. Reports by national authorities, technical advisory committee and national coordination committees**
  - a) National environment department data
  - b) Monitoring reports/first-hand observations at project sites

### 3.2 The private sector continues to support the user pays principle of national waste and pollution management

- **3.2 Sufficient information provided to allow prioritization of suitable demonstration sites**
  - a) National ownership of the projects
  - b) Governments remain committed to operation and maintenance of facilities
  - c) Trained personnel remain in place or skills are transferred to relevant staff in charge of O&M
<p>| 3.4. Number of relevant sustainable waste and pollutant management systems and mechanisms (legal, technological, financial) developed, implemented or promoted in PACP countries | (= 35% nationally) | 3.4. Baseline Year 1 of project | (= 40% Nationally) | 3.4. Established after regional assessment |
| 3.4. Baseline Year 1 of project | Baseline for Waste capture rate (amount collected/amount generated) (%) | Over 250 temporary, unregulated and open dumps | 237 temporary, unregulated and open dumps |
| 3.5. Documentation of success stories of women working in the waste management | 3.5 Baseline Year 1 of project | 3.5. Established after baseline study in Year 1 | 3.5. Project Report monitoring and evaluation |</p>
<table>
<thead>
<tr>
<th>Result Area 4: Human capacity enhanced.</th>
<th>3.6 Baseline Year 1 of project</th>
<th>3.6.TAP Meeting Reports and Evaluations</th>
</tr>
</thead>
</table>
| 4.1. Number of accredited waste and pollutant management courses conducted in the region  
   a) Accredited academic courses in waste and pollutant management are created  
   b) Accredited vocational course established | 4.1. None in 2014 | 4.1 Project training and monitoring reports |
| 4.2. Number of government staff and waste management workers completing successfully waste and pollution management training disaggregated by sex | 4.2. Baseline Year 1 of project | 4.2. To be determined during baseline studies and detailed project development |
| 4.3. Number of staff disaggregated by sex and performance of government human resources allocated to sustainable management of waste (staff performance indicator) | 4.3. Baseline Year 1 of project | 4.3 Project monitoring reports |

3.6. Establishment of TAP on Gender;  
  Number of meetings and meeting records of the TAP; and  
Outcomes of the TAP  
study in Year 1  
3.6. Establishment of TOR in 2018 and 3 meetings a year by 2019  
4.1 Management supportive of changing practices in waste and pollutant management  
Ongoing national and institutional resourcing and commitment available for training
| 4.4. Number of women participating in capacity building activities and formal training | 4.4. Baseline Year 1 of project | 4.4. To be determined during baseline studies and detailed project development | 4.4 Project capacity building and monitoring reports |

[23]
ANNEX II - GENERAL CONDITIONS

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

Article 1 - General principles

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

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

These tasks encompass the implementation by the Partner as contracting authority of procurement and grant award procedures, and the awarding, signing and enforcing the resulting procurement and grant contracts.

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

As contracting authority, the Partner shall act under Partial delegation, unless if it acts under the Imprest component of a programme estimate or under a Partner managed Pool fund:

- Under Partial delegation, the Partner acts as contracting authority for procurement contracts and grant contracts, whereby the Commission controls ex ante all award procedures and executes all related payments to the contractors and grant beneficiaries;

- Under the Imprest component of a programme estimate, the Partner acts as contracting authority for procurement and grant contracts, whereby it may, up to established thresholds, conduct procurement and grant award procedures without or with limited ex ante control of the Commission and execute payments to the contractors and grant beneficiaries, as well as in the context of direct labour.

- Under a Partner managed Pool fund, the Partner acts as contracting authority for procurement contracts and grant contracts, whereby the Commission does not control ex ante any award procedure and the Partner executes all related payments to the contractors and grant beneficiaries.

Where the Partner is an ACP State and the action is financed by the EDF pursuant to Article 1.1 of the Special Conditions, the tasks entrusted shall be those listed in points (c) to (k) of the sixth subparagraph of Article 35(1) and in Article 35(2) of Annex IV to the ACP-EC Partnership Agreement.

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

1.2 The Partner shall remain responsible for the fulfilment of the obligations stipulated in this
Financing Agreement even if it designates other entities identified in Annex I (Technical and Administrative Provisions) to carry out certain tasks. The Commission, in particular, reserves the right to suspend payments, and to suspend and/or terminate this Financing Agreement on the basis of the acts, omissions and/or situations of any designated entity.

1.3 The Partner shall set up and ensure the functioning of an effective and efficient internal control system. The Partner shall respect the principles of sound financial management, transparency and non-discrimination and avoid situations of conflict of interest.

A conflict of interest exists where the impartial and objective exercise of the functions of any responsible person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a tenderer or applicant, or contractor or grant beneficiary.

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

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

1.4 Outside the cases where the Partner applies its own (including in the case of a Pool Fund, those agreed upon by the Pool Fund's donors) procedures and standard documents for the award of procurement contracts and grant contracts, the Partner shall conduct the award procedures and conclude the resulting contracts and agreements in the language of this Financing Agreement.

1.5 The Partner shall take the necessary measures to ensure the visibility of EU funding for the activities entrusted to it or for other activities under this action. These measures shall either be defined in Annex I (Technical and Administrative Provisions) or shall be agreed later between the Partner and the Commission.

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

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

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

Calls for proposals and direct award of grants:

a. Appointment of the evaluation committee
b. Opening and administrative report including annexes and applications received

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

---

1 Elimination of unsuccessful bids five years after the closure of the procurement procedure
2 Elimination of unsuccessful applications three years after the closure of the grant procedure.
1.7 The Partner shall ensure an appropriate protection of personal data. Personal data means any information relating to an identified or identifiable natural person. Any operation involving the processing of personal data, such as collection, recording, organisation, storage, adaption or alteration, retrieval, consultation, use, disclosure, erasure or destruction, shall be based on rules and procedures of the Partner and shall only be done as far as it is necessary for the implementation of this Financing Agreement.

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

a) Prevent any unauthorised person from gaining access to computer systems performing such operations, and especially unauthorised reading, copying, alteration or removal of storage media; unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored information;

b) Ensure that authorised users of an IT system performing such operations can access only the information to which their access right refers;

c) Design its organisational structure in such a way that it meets the above requirements.

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

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

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

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

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

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

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

a. amendments to procurement contracts and grant contracts already signed;

b. individual procurement contracts to be concluded after early termination of existing procurement contracts;

c. contracts relating to audit and evaluation, which may also be signed during the closure
Financing Agreement - Annex II - General Conditions

phase;

d. operating costs referred to in Article 5.1;

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

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

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

Article 3 – Exclusion and administrative sanctions

3.1 Exclusion criteria

3.1.1 When applying the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts, the Partner shall accordingly ensure:

- that a procurement or grant contract for a given EU financed procurement or grant procedure is not awarded to an economic operator or grant applicant who
  a) has misrepresented the information required as a condition of participation in the procedure or has failed to supply that information;
  b) was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

- that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant who either itself, or a person having powers of representation, decision making or control over it,
  a) is bankrupt, subject to insolvency or winding-up procedures or in any analogous situation arising from a similar procedure provided for under national laws or regulations;
  b) is by final judgment or final administrative decision declared to be in breach of its obligations relating to the payment of taxes or social security contributions.
  c) is by final judgment or final administrative decision declared to be guilty of grave professional misconduct;
  d) is by final judgment declared to be guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
  e) has shown significant deficiencies in complying with main obligations in the performance of an EU financed contract;
  f) is by final judgment or final administrative decision declared to have committed an irregularity affecting the EU’s financial interest.
3.1.2 When applying its own (including, in the case of a Pool Fund, those agreed upon by the Pool Fund's donors) procedures and standard documents for the award of procurement and grant contracts, the Partner shall adopt measures, in accordance with its own national legislation, to ensure that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant who is in one of the situations referred to in Article 3.1.1, 1st indent, a), Article 3.1.1, 2nd indent, d) and Article 3.1.1, 2nd indent, f).

The Partner may take into account, as appropriate and on its own responsibility, the information contained in the Commission's Early Detection and Exclusion System when awarding procurement and grant contracts. Access to the information can be provided through the liaison point(s) or via consultation to the Commission (European Commission, Directorate-General for Budget, Accounting Officer of the Commission, BRES-13/505, B-1049 Brussels, Belgium and by email to BUDG-CO1-EXCL-DB@ec.europa.eu in copy to the Commission address identified in Article 3 of the Special Conditions). The Commission may refuse payments to a contractor or grant beneficiary in an exclusion situation.

3.2 Information duty

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

3.3 Administrative sanctions

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

With respect to the first paragraph, the Partner is considered in failure to act, among others, where:
- the Partner's national legislation does not allow to impose an exclusion and/or a financial penalty,
- the protection of the EU's financial interests requires to impose an administrative sanction within deadlines incompatible with the Partner's internal procedures,
- the imposition of an administrative sanction requires a mobilisation of resources beyond the Partner's means,
- its national legislation does not allow to exclude an economic operator from all EU financed award procedures.

In case of such failures, the Partner will notify its impediment to the Commission. The Commission may decide to impose an exclusion from future EU financed award procedures and/or a financial penalty between 2% and 10% of the total value of the contract concerned.
Article 4 - Partial delegation

Award procedures

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

Ex ante control

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

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

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

Report

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

Payment procedures

4.4 The Partner shall provide the Commission with the approved payment requests within the following deadlines, starting from the date of receipt of the payment request, not counting the periods of suspension of the time-limit for payment:

(a) for pre-financing specified in the procurement contract and grant contract:
   (i) 15 calendar days for an action financed under the Budget;
   (ii) 30 calendar days for an action financed under the EDF;

b) 45 calendar days for other payments

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

4.5 Upon receipt of a payment request from a contractor or grant beneficiary, the Partner shall
inform the Commission of its receipt and shall immediately examine whether the request is admissible, i.e. whether it contains the identification of that contractor or grant beneficiary, the contract or agreement concerned, the amount, the currency and the date. If the Partner concludes that the request is inadmissible, it shall reject it and inform the contractor or grant beneficiary of this rejection and of its reasons within 30 days of receipt of the request. The Partner shall also inform the Commission of this rejection and its reasons.

4.6 Upon receipt of an admissible payment request, the Partner shall examine whether a payment is due, i.e. whether all contractual obligations justifying the payment have been fulfilled, including examining a report, where applicable. If the Partner concludes that a payment is not due, it shall inform the contractor or grant beneficiary thereof and of the reasons. The dispatch of this information suspends the time-limit for payment. The Commission shall receive a copy of the information so dispatched. The Commission shall also be informed of the reply or corrective action of the contractor or grant beneficiary. That reply or action aimed at correcting the non-compliance with its contractual obligations shall restart the time-limit for payment. The Partner shall examine this reply or action pursuant to this paragraph.

4.7 If the Commission disagrees with the Partner’s conclusion that a payment is not due, it shall inform the Partner thereof. The Partner shall re-examine its positions and, if it concludes that the payment is due, it shall inform thereof the contractor or grant beneficiary. The suspension of the time-limit for payment shall be lifted upon dispatch of this information. The Partner shall also inform the Commission. The Partner shall further proceed as provided for in Article 4.8.

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

4.8 Where the Partner concludes that the payment is due, it shall transfer the payment request and all necessary accompanying documents to the Commission for approval and payment. It shall provide an overview of how many days of the time-limit for payment are left and of all periods of suspension of this time-limit.

4.9 After transfer of the payment request pursuant to Article 4.8, if the Commission concludes that the payment is not due, it shall inform the Partner and, in copy, the contractor or grant beneficiary thereof and of the reasons. Informing the contractor or grant beneficiary shall have the effect of suspending the time-limit for payment, as provided for in the contract concluded. A reply or corrective action of the contractor or grant beneficiary shall be treated by the Partner in accordance with Article 4.6.

4.10 Where the Partner and the Commission conclude that the payment is due, the Commission shall execute the payment.

4.11 Where late-payment interest is due to the contractor or grant beneficiary, it shall be allocated between the Partner and the Commission pro rata to the days of delay in excess of the time limits stipulated in Article 4.4, subject to the following:
the number of days used by the Partner is calculated from the date of the registration of an admissible payment request referred to in Article 4.6 to the date of the transfer of the request to the Commission referred to in Article 4.8 and from the date of information by the Commission referred to Article 4.9 to the following transfer of the request to the Commission referred to in Article 4.8. Any period of suspension of the time-limit for payment shall be deducted.

the number of days used by the Commission is calculated from the date following that of transfer of the request by the Partner referred to in Article 4.8 to the date of payment and from the date of transfer to the date of informing the Partner pursuant to Article 4.9.

4.12 Any circumstances unforeseen by the above procedure shall be solved in a spirit of cooperation between the Partner and the Commission by analogy to the above provisions while respecting the contractual relations of the Partner with the contractor or grant beneficiary.

Where feasible, one party shall cooperate at the request of the other party in providing useful information for the assessment of the payment request, even before the payment request is formally transferred to or returned from the first party.

4.13 A procurement contract or grant contract which has not given rise to any payment within two years of its signature shall be automatically terminated and its funding shall be decommitted, except in case of litigation before judicial courts or arbitral bodies.

Article 5 - Imprest component of the programme estimate

Application

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

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

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

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

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

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

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

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

Award procedures

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

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

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

Ex ante control

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

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

Management declaration

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

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

Payments

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

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

Late-payment interest shall be due pursuant to the applicable Financial Regulation. The time-limit for the payment may be suspended by the Commission by informing the Partner, at any time during the period referred to above, that the payment request cannot be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information which puts in doubt the eligibility of expenditure appearing in a payment request comes to the notice of the Commission, the Commission may suspend the time-limit for the payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The suspension and the reasons for it shall be communicated to the Partner as soon as possible. The time-limit for the payment shall resume once the missing supporting documents have been provided or the payment request has been corrected.

5.6 The Commission shall make payments to a bank account opened at a financial institution accepted by the Commission.

5.7 The Partner shall guarantee that funds paid by the Commission can be identified in this bank account.

5.8 Transfers in euro shall, if necessary, be converted into the Partner's national currency as and when payments have to be made by thePartner, at the bank rate in force on the day of payment by the Partner.

5.9 The Imprest component of the programme estimate which has not given rise to any payment to the Partner within two years of the conclusion of the programme estimate shall be automatically terminated, and its funding shall be decommitted. For actions financed under the EDF, an extension of that deadline may be stipulated in Article 6 of the Special Conditions.
Article 6 – Pool Fund managed by the Partner

Application

6.1 The Partner managing a Pool Fund, may be eligible for an EU Contribution to that Pool Fund, to the extent that prior evidence is obtained by the Commission that the managing entity within the Partner:

- ensures the functioning of an effective and efficient internal control system,
- uses an accounting system that provides accurate, complete and reliable information in a timely manner;
- is subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
- applies appropriate rules and procedures for procurement and grants;
- ensures the ex post publication of information on recipients; and
- ensures a reasonable protection of personal data.

Award procedures

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

Implementation

6.3 In the case of an EU Contribution to a Partner managed Pool Fund, in addition to the rights and obligations already laid down in these General Conditions, further rules detailed in Annex V to the Financing Agreement shall apply to the Partner for the implementation of the EU Contribution to the Pool Fund.

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

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

The locality of a natural person shall be a region at NUTS2 level. The locality of a legal person shall be its address.
If such internet publication is impossible, the information shall be published by any other appropriate means, including the official journal of the Partner.

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

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

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

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

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

7.3 Publication of the procurement and grant contracts concluded (i.e. signed by the Partner and the contractor or grant beneficiary) during the reporting period shall take place within six months following the date for submitting the report pursuant to Article 6 of Special Conditions.

7.4 Publication of contracts may be waived if such publication risks harming the commercial interests of contractors or grant beneficiaries. The Partner shall present a list with such justifications to the Commission which must grant prior authorisation to such publication waiver.

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

**Article 8 - Recovery of funds**

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

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

8.2 Without prejudice to the above responsibility of the Partner to recover funds unduly paid, the Partner agrees that the Commission may, in accordance with the provisions of the Financial Regulation applicable and this Financing Agreement, formally establish an amount as being unduly paid under procurement contracts and grant contracts financed under Part One and proceed to its recovery by any means on behalf of the Partner, including by offsetting the
amount owed by the contractor or grant beneficiary against any of its claims against the EU and by forced recovery before the competent courts.

8.3 To this end, the Partner shall provide to the Commission all the documentation and information necessary. The Partner hereby empowers the Commission to carry out the recovery in particular by calling on a guarantee of a contractor or grant beneficiary of which the Partner is the contracting authority or by offsetting the funds to be recovered against any amounts owed to the contractor or grant beneficiary by the Partner as contracting authority and financed by the EU under this or another Financing Agreement or by forced recovery before the competent courts.

8.4 The Commission shall inform the Partner that the recovery proceedings have been initiated (including where necessary before a national court).

8.5 Where the Partner is a grant beneficiary, subdelegatee or implementing partner of an entity with which the Commission concluded a delegation agreement, the Commission may recover funds from the Partner which are due to the entity but which the entity was not able to recover itself.

**Article 9 - Financial claims under contracts and agreements**

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

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

10.1 Individual overruns of the budget headings of the activities implemented by the Partner shall be dealt with by reallocating funds within the overall budget, in accordance with Article 25 of these General Conditions.

10.2 Wherever there is a risk of overrunning the amount foreseen for the activity implemented by the Partner, the Partner shall immediately inform the Commission and seek its prior authorisation for the corrective activities planned to cover the overrun, proposing either to scale down the activities or to draw on its own or other non-EU resources.

10.3 If the activities cannot be scaled down, or if the overrun cannot be covered either by the Partner's own resources or other resources, the Commission may, at the Partner's duly substantiated request, decide to grant additional EU financing. Should the Commission take such a decision, the excess costs shall be financed, without prejudice to the relevant EU rules and procedures, by the release of an additional financial contribution to be set by the Commission. This Financing Agreement shall be amended accordingly.
Part Two: Provisions Applicable to Budget Support

Article 11 - Policy dialogue

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

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

Article 12 - Verification of conditions and disbursement

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

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

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

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

12.4 If no payment to the Partner is made within two years of the entry into force of this Financing Agreement, its budget support component shall be automatically terminated and its funding shall be decommitted. For actions financed under the EDF, an extension of that deadline may be stipulated in Article 6 of the Special Conditions.

Article 13 - Transparency of budget support

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

Article 14 - Recovery of budget support

All or part of the budget support disbursements may be recovered by the Commission, with due respect to the principle of proportionality, if the Commission establishes that payment has been vitiates by a serious irregularity attributable to the Partner, in particular if the Partner provided unreliable or incorrect information, or if corruption or fraud was involved.
Part Three: Provisions Applicable to this Action as a Whole, Irrespective of the Management Mode

Article 15 - Execution period and contracting deadline

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

- an operational implementation phase, in which the operational activities of the action are carried out. This phase shall start on the entry into force of this Financing Agreement or on the date stipulated in the Special Conditions and end with the opening of the closure phase.

- a closure phase, during which final audit and evaluation are carried out and contracts and the programme estimate for the implementation of this Financing Agreement are technically and financially closed. The duration of this phase is stipulated in Article 2.3 of the Special Conditions. It starts after the end of the operational implementation phase.

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

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

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

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

15.5 Article 2 of these General Conditions shall apply to procurement contracts and grant contracts awarded by the Commission as contracting authority (direct management) with the exception of the last subparagraph of Article 2.1.

Delegation Agreements concluded by the Commission are subject to a different contracting deadline set out by the EU Financial Regulation. If after expiry of that deadline, the related funds are to be de-committed, the Commission will duly inform the Partner thereof.

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

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

The Partner agrees to the Commission, OLAF and the European Court of Auditors conducting
documentary and on-the-spot controls on the use made of EU financing under the activities under this Financing Agreement and carrying out a full audit, if necessary, on the basis of supporting documents of accounts and accounting documents and any other documents relating to the financing of the activities, throughout the duration of this Financing Agreement and for five years from the end of the execution period.

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

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

16.3 The checks and audits described above shall also apply to contractors, grant beneficiaries and subcontractors who have received EU financing.

16.4 The Partner shall be notified of on the spot missions by agents appointed by the Commission, OLAF or the European Court of Auditors.

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

17.1 The Partner shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities, fraud or corruption and of any measure taken or planned to deal with them.

17.2 The Partner shall ensure and check regularly that the actions financed from the budget are effectively carried out and implemented correctly. It shall take appropriate measures to prevent, detect and correct irregularities and fraud and where necessary, bring prosecutions and recover funds unduly paid.

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

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

- the use or presentation of false, incorrect or incomplete, statements or documents which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or the EDF;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they are originally granted.

17.3 The Partner undertakes to take every appropriate measure to prevent, detect and punish any practices of active or passive corruption during the implementation of the Financing Agreement.

"Passive corruption" shall mean the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the EU's financial interests.

"Active corruption" shall mean the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official, for himself or for a third party, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the EU's financial interests.

17.4 If the Partner does not take appropriate measures to prevent fraud, irregularities and corruption, the Commission may adopt precautionary measures including the suspension of this Financing Agreement.

Article 18 - Suspension of payments

18.1 Without prejudice to the suspension or termination of this Financing Agreement according to Articles 26 and 27, respectively, the Commission may suspend payments partially or fully, if:

a) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed substantial errors, irregularities or fraud in the procurement and grant award procedure or in the implementation of the action, or the Partner has failed to comply with its obligations under this Financing Agreement, including obligations regarding the implementation of the Communication and Visibility plan;

b) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this or other Financing Agreements, provided that those errors, irregularities, fraud or breach of obligations have a material impact on the implementation of this Financing Agreement or call into question the reliability of the Partner's internal control system or the legality and regularity of the underlying expenditure;

c) the Commission suspects that the Partner committed substantial errors, irregularities, fraud or breach of obligations in the procurement and grant award procedure or in the implementation of the action and needs to verify whether they have occurred.

d) it is necessary to prevent significant damage to the financial interests of the EU.
18.2 The Commission shall immediately inform the Partner about the suspension of payments and of the reasons for this suspension.

18.3 The suspension of payments shall have the effect of suspending payment time-limits for any payment request pending.

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

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

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

Article 20 - Right of establishment and residence

20.1 Where justified by the nature of the procurement contract or grant contract, the Partner shall entitle natural and legal persons participating in invitations to tender for works, supply or service contracts or calls for proposals and entities expected to be entrusted with implementation tasks identified in Annex I with a provisional right of establishment and residence in the Partner’s territory(ies). This right shall remain valid for one month after the contract is awarded.

20.2 The Partner shall also entitle procurement contractors and grant beneficiaries, entities entrusted with implementation tasks identified in Annex I (Technical and Administrative Provisions), natural persons whose services are required for the performance of this action and members of their families with similar rights during the implementation of the action.

Article 21 - Tax and customs provisions and foreign exchange arrangements

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

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

21.2 Where a Framework Agreement is applicable, which includes more detailed provisions on this subject, these provisions shall apply as well.
Article 22 - Confidentiality

22.1 The Partner agrees that its documents and data held by an entity with which the Partner is in a contractual relationship regarding them may be forwarded to the Commission by that entity for the sole purpose of implementing this or another Financing Agreement. The Commission shall respect all confidentiality arrangements agreed between the Partner and that entity.

22.2 Without prejudice to Article 16 of these General Conditions, the Partner and the Commission shall preserve the confidentiality of any document, information or other material directly related to the implementation of this Financing Agreement that is classified as confidential.

22.3 The Parties shall obtain each other's prior written consent before publicly disclosing such information.

22.4 The Parties shall remain bound by the confidentiality until five years after the end of the execution period.

Article 23 - Use of studies

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

Article 24 - Consultation between the Partner and the Commission

24.1 The Partner and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further pursuant to Article 28 of these General Conditions.

24.2 Where the Commission becomes aware of problems in carrying out procedures relating to management of this Financing Agreement, it shall establish all necessary contacts with the Partner to remedy the situation and take any steps that are necessary.

24.3 The consultation may lead to the amendment, suspension or termination of this Financing Agreement.

24.4 The Commission shall regularly inform the Partner of the implementation of activities described in Annex I which do not fall under Parts One and Two of these General Conditions.

Article 25 - Amendment of this Financing Agreement

25.1 Any amendment of this Financing Agreement shall be made in writing, including an exchange of letters.

25.2 If the request for an amendment comes from the Partner, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Partner and accepted by the Commission. In the exceptional cases of an adjustment of the objectives of the action and/or an increase in the
EU contribution, such request shall be submitted at least six months before the amendment is intended to enter into force.

25.3 If the adjustment both does not significantly affect the objectives of the activity implemented pursuant to Part One of these General Conditions, and if it concerns matters of detail which do not affect the technical solution adopted, and if it does not include the reallocation of funds, or if it concerns reallocations of funds for an amount equivalent to the amount of the contingency reserve, the Partner shall inform the Commission of the adjustment and its justification in writing as soon as possible and may apply that adjustment.

25.4 The use of the contingency reserve provided for an action shall be subject to the Commission's prior written approval.

25.5 Where the Commission considers that the Partner ceases to perform satisfactorily the tasks entrusted pursuant to Article 1.1 of these General Conditions and without prejudice to Articles 26 and 27 of these General Conditions, the Commission may decide to retake the tasks entrusted from the Partner in order to continue the implementation of the activities on behalf of the Partner after informing the latter in writing.

Article 26 - Suspension of this Financing Agreement

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

- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches an obligation under this Financing Agreement.

- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches any obligation set under the procedures and standard documents referred to in Articles 1, 4, 5 and 6 of these General Conditions.

- The Commission may suspend this Financing Agreement if the Partner breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption.

- This Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.

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

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

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

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

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

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

Article 27 - Termination of this Financing Agreement

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

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

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

Article 28 - Dispute settlement arrangements

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

Where the Partner is an ACP State or an ACP regional body or organisation and this action is financed under the EDF, the dispute shall be submitted, prior to arbitration and after the consultations provided for in Article 24 of these General Conditions, to the ACP-EC Council of Ministers, or, between its meetings, to the ACP-EC Committee of Ambassadors, pursuant to Article 98 of the ACP-EC Partnership Agreement. If the Council or Committee does not succeed in settling the dispute, either party may request settlement of the dispute by arbitration in accordance with Articles 28.2, 28.3 and 28.4.

28.2 Each party shall designate an arbitrator within 30 days of the request for arbitration. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in their turn designate a third
arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.

28.3 Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.

28.4 Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.