



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR EDUCATION, YOUTH, SPORT AND  
CULTURE  
Youth, Education and Erasmus+

**EUROPEAN UNION**  
**CONTRIBUTION AGREEMENT FOR THE IMPLEMENTATION OF THE**  
**ERASMUS+ PROGRAMME AND THE EUROPEAN SOLIDARITY CORPS**  
**PROGRAMME**

**N° EAC-2022- 0007**

The European Union (hereinafter referred to as ‘the Union’ or ‘the EU’), represented by the European Commission, represented for the purposes of signature of this Contribution Agreement (‘the Agreement’) by Ms xxxx, Director, Directorate-General for Education, Youth, Sport and Culture, first counterparty,

and

DUM ZAHRANICNI SPOLUPRACE,

(hereinafter referred to as ‘the National Agency’),

represented for the purposes of signature of this Agreement by Mr Michal UHL,

whose registered office is at:

NA PORICI 1035/4  
CZ - 110 00 PRAHA 1,

second counterparty, (individually a ‘Party’ and collectively the ‘Parties’),

Having regard to Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013;

Having regard to Regulation (EU) 2021/888 of the European Parliament and of the Council of 20 May 2021 establishing the European Solidarity Corps Programme and repealing Regulations (EU) 2018/1475 and (EU) No 375/2014;

Having regard to the decision of the National Authorities of Czech Republic to designate DUM ZAHRANICNI SPOLUPRACE as National Agency for the Erasmus+ Programme and the European Solidarity Corps Programme;

Having regard to the decision of the European Commission to entrust the implementation of Erasmus+ and European Solidarity Corps management tasks (hereinafter referred to as ‘entrusted tasks’) in Czech Republic to the National Agency in accordance with the terms and conditions of the Erasmus+ and European Solidarity Corps legal bases and the Guide for National Agencies (Annex VI to this Contribution Agreement),

HAVE AGREED AS FOLLOWS:

## I. SPECIAL CONDITIONS

### ARTICLE 1 – PURPOSE

- 1.1 The purpose of this Agreement is to:
- a) provide the National Agency with a financial contribution to finance the implementation of the Action as described in Annex I (the ‘Action’);
  - b) define the tasks entrusted to the National Agency as described in Annex VI;
  - c) establish the rules for the implementation and for the payment of the EU contribution;
  - d) define the relations between the National Agency and the European Commission.
- 1.2 The National Agency shall undertake all actions under this Agreement and in its annexes. In particular and as indicated as well in Annex I, the National Agency shall perform the following entrusted tasks:
- a) award grants to beneficiaries by way of grant agreements, as specified by the European Commission for the Programme concerned;
  - b) manage all stages of the project lifecycle of the following Programme actions, as applicable in accordance with the mandate specified in the designation of the National Agency:
    - within the framework of the Erasmus+ programme: learning mobility of individuals and groups, non-formal and informal learning mobility, youth participation activities, cooperation partnerships and small-scale partnerships, training and cooperation activities, as well as the DiscoverEU related activities;
    - within the framework of the European Solidarity Corps programme: volunteering, solidarity projects, networking activities, as well as specific training for participants and organisations in solidarity-related activities;
  - c) perform, as autonomous additional tasks, the functions of national Erasmus+ structures other than the National Agency’s (hereinafter referred to as ‘networks’), in accordance with Annex I.
- 1.3 The National Agency shall perform the entrusted tasks under its own responsibility and in accordance with the principles of sound financial management, transparency and non-discrimination and with Annex VI. It shall:
- a) set up and ensure the functioning of an internal control system that is effective and efficient in accordance with section 2 of Annex VI;

- b) use an accounting system that provides accurate, complete and reliable information in a timely manner in accordance with section 2.6 of Annex VI;
  - c) be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of it in accordance with Article II.3.10 of the General Conditions;
  - d) apply appropriate rules and procedures for the management of funding as grants and procurement in accordance with section 4 and section 8 of Annex VI;
  - e) apply appropriate rules and procedures for exclusion from access to funding, in accordance with section 4.9.1 of Annex VI;
  - f) apply appropriate rules and procedures for publication of information on recipients, in accordance with section 4.15 of Annex VI and with Article II.24 of the General Conditions;
  - g) apply appropriate rules and procedures for the protection of personal data, in accordance with section 6 of Annex VI and Article II.7 of the General Conditions;
  - h) carry out checks on grant beneficiaries in accordance with section 5.4 of Annex VI and Article II.18 of the General Conditions;
  - i) recover funds unduly paid in accordance with section 5.5 of Annex VI and Article II.16 of the General Conditions;
  - j) report to the European Commission on the implementation of the entrusted tasks in accordance with Article I.6 of the Special Conditions and Article II.3 of the General Conditions;
  - k) make use of the relevant IT tools provided by the European Commission to record all information in relation to the Programme actions managed by the National Agency;
  - l) develop a consistent approach with regard to dissemination and exploitation of results of actions managed within the Programme in accordance with section 3.3 of Annex VI;
  - m) assist the European Commission in the general task of disseminating information in respect of actions managed at European level, and their results, and inform relevant target groups about the actions undertaken in their country in accordance with section 3 and section 5.6 of Annex VI.
- 1.4 The Action is financed under the Erasmus+ programme and the European Solidarity Corps programme.
- 1.5 The National Agency shall send annually a management declaration to the European Commission as indicated in Article II.3.9.

## **ARTICLE 2 – ENTRY INTO FORCE AND IMPLEMENTATION PERIOD**

### **Entry into force**

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

### **Implementation Period**

2.2 The Implementation Period of the Agreement (the ‘Implementation Period’) shall commence retroactively<sup>1</sup> on 1 January 2022 and shall end on 30 June 2027.

2.3. The Implementation Period of the Agreement is 66 months.

2.4 The National Agency shall sign individual contracts in relation with the EU contribution to networks at the latest by 31 December 2022.

2.5 The National Agency shall sign the grant agreements awarded under the EU contribution to grant support by the dates provided in Annex V.

## **ARTICLE 3 – FINANCING THE ACTION**

3.1 The maximum amount of the Union financial contribution (the ‘EU contribution’) for the implementation of the entrusted tasks is:

- for the Erasmus+ programme: EUR 78.686.075,00.
- for the European Solidarity Corps programme: EUR 3.242.014,00.

3.2 The EU contribution shall allocate funds:

- a) for the implementation of the Action by the National Agency, hereafter referred to as ‘the EU contribution to grant support’;
- b) for support to the following networks: National VET Teams, Eurodesk, hereafter referred to as ‘the EU contribution to networks’. This contribution shall cover the costs for support to the corresponding networks for the calendar year 2022;
- c) for support to the management costs of the National Agency in relation to the entrusted tasks, hereafter referred to as ‘the EU contribution to management costs’. This contribution shall cover the management costs of the National Agency for the calendar year 2022.

3.3. The EU contribution shall be used solely for the purpose of the implementation of this Agreement.

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<sup>1</sup> In accordance with the Erasmus+ annual work programme for 2022 and the European Solidarity Corps annual work programme for 2022.

### **The EU contribution to grant support**

- 3.4 The maximum EU contribution to grant support is:
- EUR 78.686.075,00 for the Erasmus+ programme;
  - EUR 2.988.622,00 for the European Solidarity Corps programme.

### **The EU contribution to networks**

- 3.5 The European Commission shall provide:
- a) a contribution of maximum EUR 95.892,00, corresponding to maximum 95% of the total acceptable expenditure incurred in relation with National VET Teams.
  - b) a contribution of maximum EUR 59.649,00, corresponding to maximum 60% of the total acceptable expenditure incurred in relation with Eurodesk.
  - c) Not applicable;
  - d) Not applicable;
  - e) Not applicable;
  - f) Not applicable.

### **The EU contribution to management costs**

- 3.6 The European Commission shall provide:
- a) a contribution to management costs of the Erasmus+ programme for an amount of EUR 3.836.669,00;
  - b) a contribution to management costs of the European Solidarity Corps programme for an amount of EUR 253.392,00.

## **ARTICLE 4 – BUDGET TRANSFERS**

### **Budget transfer limitations**

- 4.1 Budget transfers between the EU contribution allocated to Erasmus+ and the EU contribution allocated to the European Solidarity Corps are not allowed.
- 4.2 Budget transfers between the total EU contribution to networks, the EU contribution to management costs and the EU contribution to grant support are not allowed.
- 4.3 Under Erasmus+, budget transfers between the education and training field and the youth field are not allowed.
- 4.4 Under Erasmus+, budget transfers between Heading 2 and Heading 6 funds are not allowed.
- 4.5. Under Erasmus+, budget transfers between NDICI and IPA III funds are not allowed.

- 4.6. Not applicable.
- 4.7 With regard to the EU contribution to networks, budget transfers between the different networks are not allowed.
- 4.8 Budget transfers between sub-regions exceeding the variation rate indicated in Article I.4.9 are not allowed.

#### **Budget transfers within the EU contribution to grant support**

- 4.9 With regard to budget transfers between the NDICI sub-regions, by way of derogation to Article II.11.3 of the General Conditions:

- where a modification to Annex I and/or Annex III does not affect the main purpose of the Action, such as its objectives, strategy and priority areas and where the financial impact is limited to a transfer between the sub-regions involving a variation (as the case may be in cumulative terms) of up to 10 % of the amount originally entered per sub-region (as indicated in Annex III),

the National Agency may unilaterally amend Annex I and/or Annex III and shall inform the European Commission accordingly in writing, at the latest in the next Yearly Report.

- 4.10 A maximum of 20% of the final amount, after budget transfers (where applicable), for Volunteering (as indicated in Annex III) may be used for 'in-country' activities.

### **ARTICLE 5 – PAYMENTS**

#### **Pre-financing**

- 5.1 With regard to Article II.20 of the General Conditions, the pre-financing is intended to provide the National Agency with a float. It remains the property of the EU until the payment of the balance.

#### **First pre-financing payment**

- 5.2 Within 30 days of the entry into force of this Agreement as set out in Article I.2.1, the European Commission shall pay to the National Agency a first pre-financing payment representing:
- a) 70% of the maximum amount specified in Article I.3.4;
  - b) 100% of the maximum amounts specified in Article I.3.5;
  - c) 100% of the maximum amounts specified in Article I.3.6.
- 5.3 Not applicable.

## **Second and further pre-financing payment**

- 5.4 With regard to Article II.20.2 of the General Conditions, the National Agency may submit a request for a second and, if applicable, further pre-financing payment that shall specify the amount needed.
- 5.5 The European Commission shall pay the second/further pre-financing instalment to the National Agency within 60 days of receipt of the request for payment and accompanying documents, except if the payment deadline or the payments are suspended in accordance with Article II.13 of the General Conditions.

## **Interest generated by pre-financing**

- 5.6 Positive interests generated by the EU contribution as indicated in Article I.3.1 will be added to the EU contribution to grant support, as set out in section 7.1.3.8 of Annex VI.
- 5.7 Negative interests generated by the EU contribution as indicated in Article I.3.4 may be deducted from the EU contribution to grant support, provided that the conditions set out in section 7.1.3.8 of Annex VI and in the negative interest strategy (Annex VIII) submitted by the National Agency are fulfilled.

## **Eligible costs for EU contribution to networks**

- 5.8 With regard to the EU contribution to networks the following categories of costs are eligible costs, provided that they satisfy the eligibility conditions set out in Article II.19 of the General Conditions:
- a) Costs of the personnel of the National Agency directly carrying out tasks in relation with the management of the National VET Teams experts/Eurodesk information centre (excluding personnel assigned to the management of the EU contribution to grant support awarded in accordance with Annex V). Costs of the personnel shall correspond to actual salaries, social security contributions and other statutory costs included in their remuneration and provided in accordance with the National Agency remuneration policy. Only the portion of the costs of personnel corresponding to the actual time spent on the tasks in relation with the management of the National VET Teams experts/Eurodesk information center shall be taken into account;
  - b) costs of travel (including where applicable costs for national or international missions) and related subsistence allowances by the personnel referred in point a), provided that these costs are in line with the National Agencies' usual practices on travel;
  - c) costs of consumables, supplies, equipment, materials, staff training, production of information, organisation of conferences and seminars, of data processing (hardware, software, maintenance), consultancy, fees for external experts, provided that the conditions laid down in Article II.26 of the General Conditions are met;

d) costs arising directly from requirements imposed by the Agreement (dissemination of information (meetings, exhibitions, etc.), specific evaluation of the Action, audits, translations, reproduction), provided that the corresponding services are purchased in accordance with Article II.26 of the General Conditions;

e) Not applicable.

### **Provisions on payments**

5.9 The European Commission shall approve the request for pre-financing payments and shall make the payments in accordance with Article II.20 of the General Conditions.

5.10 In line with Article II.20 of the General Conditions, the reports, documents, requests for pre-financing payments and the request for the balance shall be drafted in Euros. The European Commission shall make payments in Euros.

5.11 Where the National Agency keeps its accounts in a currency other than the Euro, it shall convert expenditure incurred in another currency into Euro at the average of the daily exchange rates published in the C series of the Official Journal of the European Union (<https://www.ecb.int/stats/exchange/eurofxref/html/index.en.html>), determined over the corresponding reporting period.

5.12 Where no daily Euro exchange rate is published in the Official Journal of the European Union for the currency in question, conversion shall be made at the average of the monthly accounting rates established by the European Commission and published on its website ([http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)), determined over the corresponding reporting period.

5.13 Where the National Agency keeps its accounts in Euro, it shall convert expenditure incurred in another currency into Euro according to its usual accounting practices.

5.14 Payments by the European Commission shall be deemed to be effected on the date when they are debited to the European Commission's account.

### **Bank accounts**

5.15 The National Agency shall manage its bank accounts in compliance with the rules for bank accounts set out in section 7.3.2 of Annex VI.

5.16 Payments of the contribution to management costs, contribution to networks and funds for grant support shall be made to the National Agency's Erasmus+ and the European Solidarity Corps bank account as indicated below:

<b>ERASMUS+</b>	
Name of the bank:	<b>CESKA NARODNI BANKA</b>
Account holder:	<b>DUM ZAHRANICNI SPOLUPRACE</b>
IBAN code of the account:	<b>CZ07 0710 0345 3400 0813 xxxx</b>



<b>European Solidarity Corps</b>	
Name of the bank:	<b>CESKA NARODNI BANKA</b>
Account holder:	<b>DUM ZAHRANICNI SPOLUPRACE</b>
IBAN code of the account:	<b>CZ60 0710 0345 3400 0853 xxxx</b>

- 5.17 The bank accounts mentioned above should allow the related interest yielded to be identified. Otherwise, the accounting methods of the National Agency must make it possible to identify the funds paid by the European Commission and the interest or other benefits yielded by those funds.

### **Performance-based financing**

- 5.18 Article II.20.11 and II.23 of the General Conditions are not applicable.

## **ARTICLE 6 – REPORTING**

### **General issues**

- 6.1 With reference to Article II.3 of the General Conditions, on the reception of the National Agency Yearly Report, the European Commission shall have 90 days upon receipt of the Audit Opinion of the Independent Audit Body to:
- a) request the National Agency or the Independent Audit Body to provide supporting documents or any additional information it deems necessary to complete the assessment of the National Agency Yearly Report or the Audit Opinion;
  - b) complete its assessment of the National Agency Yearly Report and Audit Opinion and determine the final amount of the EU contribution as referred to in Article II.21 of the General Conditions;
  - c) if appropriate, reject the National Agency Yearly Report and/or the Audit Opinion and request the submission of a new National Agency Yearly Report and/or Audit Opinion;
  - d) if appropriate, approve the report;
  - e) if appropriate, execute the related payment of balance.
- 6.2 Requests for supporting documents, for additional information or for the submission of a new report shall be notified to the National Agency in writing. The National Agency shall have 30 days to submit the information or new documents requested. If additional information or documents are requested, the time limit for assessment shall be extended by the time it takes to obtain the information or documents.
- The same procedure shall apply where a report is rejected and a new report is requested.
- 6.3 All requests for payments, all the reports and documents shall be submitted by the National Agency in one of the working languages of the European Commission.

## **The National Agency Yearly Report**

- 6.4 No later than 15 February of each year, the National Agency shall submit to the European Commission, National Authority and the Independent Audit Body its Yearly Report on the previous calendar year. The content and format of the National Agency Yearly Report shall be in accordance with the requirements specified in Articles II.3.6 and II.3.7 of the General Conditions.
- 6.5 The National Agency Yearly Report shall be considered as formally received by the European Commission upon receipt by the European Commission of the corresponding Audit Opinion.
- 6.6 In accordance with Article 26 of the Erasmus+ Regulation<sup>2</sup>, the National Agency Yearly Report shall be subject to an Audit Opinion issued by the Independent Audit Body. This report has to be sent to the European Commission no later than 15 March of each year.
- 6.7 If the National Agency fails to submit the National Agency Yearly Report or the requested additional information or supporting documents within the set deadline or if the submitted new documents are not properly revised by the National Agency, the European Commission reserves the right to suspend the time limit for the payment or suspend the implementation of the entrusted tasks in accordance with Article II.13 of the General Conditions or to terminate the Agreement in accordance with Article II.14 of the General Conditions.

## **Reporting on interest**

- 6.8 As part of the National Agency Yearly Report, referred to in Article I.6.4, the National Agency shall report to the European Commission on the total amount of interest yielded by the pre-financing received between 1 January and 31 December - both dates included - of the previous year.
- 6.9 As part of the National Agency Yearly Report submitted in the year following the reporting referred to in Article I.6.8, the National Agency shall report to the European Commission on the use of the positive interest yielded by the pre-financing as set out in Article I.6.8.
- 6.10 As part of the National Agency Yearly Report submitted in the year of the reporting referred to in Article I.6.8, the National Agency shall report to the European Commission on the use of the negative interest generated by the pre-financing as set out in Article I.6.8.

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<sup>2</sup> Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013.

## **ARTICLE 7 – COMMUNICATION, LANGUAGE AND CONTACTS**

- 7.1 All communications to the European Commission in connection with the Agreement, including reports referred to in Article II.3 of the General Conditions, shall be in one of the working languages of the European Commission.
- 7.2 Any communication relating to the Agreement shall be in writing, shall state the European Commission's contract number and the title of the Action, and shall be dispatched to the addresses below.
- 7.3 Any communication relating to the Agreement, including payment requests and attached reports, and requests for changes to bank account arrangements shall be sent to:

### **For the European Commission:**

For communications sent by ordinary mail service:

Ms xxx  
Head of Unit  
European Commission  
Directorate-General for Education, Youth, Sport and Culture  
Unit EAC.B.4  
B-1049 Brussels  
Belgium

For communication sent by electronic mail:

[xxxx@ec.europa.eu](mailto:xxxx@ec.europa.eu)

### **For the National Agency:**

For communication sent by ordinary mail service:

Mr Michal UHL  
Director  
DUM ZAHRANICNI SPOLUPRACE  
NA PORICI 1035/4  
110 00 PRAHA 1  
Czech Republic

- 7.4 Ordinary mail shall be deemed to have been received by the receiving party on the date on which it is officially registered at the address referred to above. Ordinary mail shall be considered to have been received by the European Commission on the date on which it is formally registered by the department identified above. Communication not indicating the reference number of the Agreement shall not be considered.
- 7.5 Formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

- 7.6 Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.
- 7.7 Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.
- 7.8 The European Commission shall use the NAconnECt platform for the distribution of reference documents and formal information in relation to this Agreement. Documents published by the European Commission on the NAconnECt platform shall be considered as received by the National Agency on the date of their publication on the NAconnECt platform.

#### **ARTICLE 8 – AMENDMENT TO THE AGREEMENT**

- 8.1 With reference to article II.11 of the General Conditions an amendment may not have the purpose or the effect of making changes to the Agreement which would call into question the outcome of the assessment of the National Agency's rules and procedures or of the acceptance of its designation by the European Commission as the National Agency for the Erasmus+ programme and the European Solidarity Corps programme.
- 8.2 Any request for amendment shall be duly justified and shall be sent to the other party in due time in line with article II.11 of the General Conditions.
- 8.3 By virtue of Article II.11 of the General Conditions and with regard to any modification of the EU contribution allocated to each network as indicated in Article I.3.5 and in Annex III, the National Agency shall request an amendment at least two months before the end date indicated in Article I.2.3.
- 8.4 Amendment requests with regard to an extension of the period set out in Article I.2.3 for the use of the EU contribution to networks will be disregarded.
- 8.5 Amendments shall enter into force on the date on which the last party signs the amendment.
- 8.6 Amendments shall take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.
- 8.7 Amendments to Annexes V and VI of this Agreement may be made unilaterally by the European Commission provided that they do not call into question the effective capacity of the National Agency to implement the entrusted tasks. These amendments enter into force on the date on which they are notified by the European Commission to the National Agency.

## **ARTICLE 9 – DATA CONTROLLER**

The entity acting as a data controller according to Article II.7 of the General Conditions shall be:

European Commission  
Directorate-General for Education, Youth, Sport and Culture  
B-1049 Brussels  
Belgium

## **ARTICLE 10 – LICENCES FOR ONLINE LANGUAGE SUPPORT (OLS)**

The National Agency shall distribute and manage the licences in accordance with the requirements set out in section 9.2.14 of Annex VI and its annexes.

## **ARTICLE 11 – EU RESTRICTIVE MEASURES**

- 11.1 Article II.25.5 shall be supplemented as follows: Economic resources provided by the European Commission under this Action shall not be made available to, or for the benefit of, third parties - whether entities, individuals or groups of individuals - designated by the EU as subject to restrictive measures in the lists provided at [www.sanctionsmap.eu](http://www.sanctionsmap.eu) ('EU Restrictive Measures').
- 11.2 The National Agency shall cooperate with the European Commission in assessing if the third parties - whether entities, individuals or groups of individuals - identified by the National Agency as recipients of funds in connection with the implementation of the respective contribution agreement fall under the scope of EU restrictive measures. In the event that such recipients would fall under the scope of EU restrictive measures, the National Agency shall promptly inform the European Commission.
- 11.3 In such event, the National Agency and the European Commission shall consult each other with a view to jointly determining remedial measures in accordance with their respective applicable legal framework. Such measures may include, but shall not be limited to, the reallocation of the remaining EU Contribution under this Agreement, net of any costs incurred by the National Agency for undertaking any procurement or award procedure.
- 11.4 Where such remedial measures are not feasible, the corresponding amount shall not be charged to the Action. This is without prejudice to the suspension or termination of the contribution agreement, together with the recovery of any unspent funds contributed by the European Commission to the National Agency.

## ARTICLE 12 – ANNEXES

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

- Annex I Description of the Action that includes the National Agency’s 2022-2027 multiannual and 2022 annual Work Programmes for Erasmus+ and the European Solidarity Corps
- Annex II General Conditions
- Annex III Budget for the Action
- Annex IV Financial Identification Form
- Annex V Calendar for the use of funds for grant support
- Annex VI Guide for National Agencies
- Annex VII Rules on the application of financial corrections
- Annex VIII Negative interest avoidance strategy

which form an integral part of this Agreement.

In the event of a conflict between these Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence.

In the event of a conflict between the provisions of Annex II-General Conditions and those of the other Annexes, the provisions of Annex II shall take precedence.

Done in Brussels in the English language,

**For the National Agency**

Name Michal Uhl

Position

Signature

Date

**For the European Commission**

Name

Position

Signature

Date

## II. ANNEX II - GENERAL CONDITIONS

### ARTICLE 1 – DEFINITIONS

**Action:** the (multi)annual work programme which is carried out by the National Agency as described in Annex I. Where reference is made to the Action, this refers to activities exclusively financed by the EU Contribution.

**Breach of obligations:** failure by the National Agency to fulfil one or more of its contractual obligations.

**Confidential information or document:** any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Agreement that any of the parties has identified in writing as confidential. It does not include information that is publicly available.

**Conflict of interest:** a situation where the impartial and objective implementation of the Agreement by the National Agency, contractor or beneficiary is compromised for reasons involving family, emotional life, political or national affinity, economic interest, any other direct or indirect personal interest or any other shared interest with the European Commission or any third party related to the subject matter of the Agreement.

**Contractor:** a natural or legal person with whom a procurement contract has been signed.

**Days:** calendar days.

**Early Detection and Exclusion System:** a system set up by Regulation (EU, Euratom) No 2015/1929 of 28 October 2015 on the financial rules applicable to the general budget of the Union (OJ L 286/1, 30.10.2015), which includes information on the early detection of risks threatening the EU financial interests, on the cases of exclusion from EU funding of legal and natural persons and on the cases of imposition of financial penalties.

**End Date:** the date by which the Agreement ends, i.e. the moment of the payment of the balance by the European Commission in accordance with Article II.21 or when the National Agency repays any amounts paid in excess of the final amount due pursuant to Article II.16. If any of the Parties invokes a dispute settlement procedure in accordance with Article II.15, the End Date shall be postponed until the completion of such procedure.

**Final Administrative Decision:** a decision of an administrative authority having final and binding effect in accordance with the applicable law.

**Final Beneficiary:** a natural or legal person ultimately benefiting from the Action.

**Force Majeure:** any unforeseeable and exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of their obligations under the Agreement, which may not be attributed to error or negligence on either part (or on the part of the Grant Beneficiaries, Partners, Contractors, agents or staff), and which could not have been avoided by the exercise of due diligence. Any default of a service, defect in equipment or material or delays in making them available cannot be invoked as force majeure, unless they stem directly from a relevant case of force majeure. Labour disputes, strikes or financial problems of the National Agency cannot be invoked as force majeure by the defaulting Party.

**Formal notification:** form of communication between the parties made in writing, by mail or electronic mail which provides the sender with compelling evidence that the message was delivered to the specified recipient.

**Fraud:** any act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget, the non-disclosure of information in violation of a specific obligation, with the same effect or the misapplication of such funds or assets for purposes other than those for which they were originally granted.

**Grant:** a direct financial contribution by way of donation given by the National Agency to finance third parties activities.

**Grant beneficiary:** a natural or legal person to whom a Grant has been awarded. Grant Beneficiaries can sub-grant and procure for the implementation of their activities.

**Grave professional misconduct:** any of:

a violation of applicable laws or regulations, in particular the National Agency's Regulations and Rules, or ethical standards of the profession to which a person or entity belongs, including any conduct leading to sexual or other exploitation or abuse, or

any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence.

**Implementation period:** the period of implementation of the activities forming part of the Action, as specified in Article I.2.

**Indicator:** the quantitative and/or qualitative factor or variable that provides a simple and reliable means to measure the achievement of the Results of an action.

**Indirect costs:** those costs which are not specific costs directly linked to the implementation of the Action and which therefore cannot be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs.

**Internal control system:** a process applicable at all levels of management designed to provide reasonable assurance of achieving the following objectives:

- a) effectiveness, efficiency and economy of operations;
- b) reliability of reporting;



- c) safeguarding of assets and information;
- d) prevention, detection, correction and follow-up of fraud and irregularities;
- e) adequate management of the risks relating to the legality and regularity of the financial operations, taking into account the multiannual character of programmes as well as the nature of the payments concerned

**Irregularity:** any infringement of a provision of Union law resulting from an act or omission by the National Agency, contractor or beneficiary, which has or would have the effect of prejudicing the Union's budget.

**National Agency:** body in charge of managing the implementation of the Erasmus+ programme and, as appropriate, the European Solidarity Corps programme, at national level in a Member State or in a third country associated to the Programme.

**National Agency Yearly Report:** a set of reports and supporting documents on implementation of the Action covered by different National Agency [multi] annual work programmes, which the National Agency submits to the European Commission, the National Authority and the Independent Audit Body by 15 February of each year.

**Outcome:** the likely or achieved short-term and medium-term effects of an Action's Outputs.

**Output:** the products, capital goods and services which result from an Action's activities.

**Procurement Contract:** a contract signed between the Contractor and either the National Agency or a Partner under which the Contractor provides services, supplies or works.

**Regulations and Rules:** regulations, rules, instructions and other parts of the regulatory framework of the National Agency.

**Result:** the Output or Outcome of an Action.

**Sound Financial Management:** a principle overarching the implementation of this Agreement, namely economy, effectiveness and efficiency (including all aspects of internal control). The principle of economy requires that resources used in the pursuit of the implementation of the Action shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of effectiveness concerns the attainment of the specific objectives and the achievement of the intended results. The principle of efficiency concerns the best relationship between resources employed and results achieved.

## ARTICLE 2 – GENERAL OBLIGATIONS

### Implementation of the Action

- 2.1 The National Agency is responsible for the implementation of the Action described in Annex I, regardless of whether the activities are performed by the National Agency itself, a contractor or a grant beneficiary. The European Commission and the National Agency will endeavour to strengthen their mutual contacts with a view to fostering the exchange of information throughout the implementation of the Action. To this end, the National Agency and the European Commission shall participate in coordination meetings and other common activities, as appropriate.

### Responsibility

- 2.2 The National Agency shall be responsible for the performance of the obligations under this Agreement with a due degree of professional care and diligence, which means that it shall apply the same level of duty and care which it applies in managing its own funds. The National Agency shall respect the principles of sound financial management, transparency, non-discrimination and visibility of the European Union in the implementation of the Action.
- 2.3 The National Agency shall have full financial responsibility towards the European Commission for all funds, including those unduly paid to or incorrectly used by contractors or grant beneficiaries. The National Agency shall take measures to prevent, detect and correct irregularities and fraud when implementing the Action. To this end, the National Agency shall carry out, in accordance with the principle of proportionality and with Annex VI to this Agreement and its positively assessed Regulations and Rules, ex-ante and/or ex-post controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the Action financed by the EU contribution is effectively carried out and implemented correctly. The National Agency shall inform the European Commission of irregularities and fraud detected in the management of the EU contribution and the measures taken. Where funds have been unduly paid to or incorrectly used by contractors or grant beneficiaries, the National Agency shall take all applicable measures in accordance with Annex VI and its positively assessed Regulations and Rules to recover those funds, including, where appropriate, by bringing legal proceedings and by endeavouring to assign claims against its contractors or grant beneficiaries to the European Commission. Where the National Agency has exhausted such measures and the non-recovery is not the result of error or negligence on the part of the National Agency, the European Commission will consider the amounts that could not be recovered from contractors and/or grant beneficiaries as eligible costs.

### Other obligations

- 2.4 The National Agency undertakes to ensure that the obligations stated in this Agreement under Articles II.2.6, II.5-Conflict of interests, II.7-Data protection, II.8-Communication and Visibility, II.17-Accounts and archiving and Article II.18-Access and financial checks apply, where applicable, to all contractors and grant beneficiaries.

- 2.5 The National Agency shall notify the European Commission without delay of:
- a) any substantial change in the rules, procedures and systems applied in the implementation of the Action. This obligation concerns in particular:
    - (i) substantial changes affecting the ex-ante assessment undergone by the National Agency or
    - (ii) those that may affect the conditions for eligibility provided for in the applicable legal instruments of the EU.
  - b) any substantial change in its legal, financial, technical, organisational or ownership situation;
  - c) any event that may harm the Union financial interests or its reputation.
- 2.6 The European Commission and the National Agency shall use their best efforts to resolve amicably any issues resulting from such changes. The European Commission reserves the right to adopt or require additional measures in response to such changes. In the event an agreement on such measures or other solutions cannot be reached between the Parties, either Party may terminate the Agreement in accordance with Article II.14.3.
- 2.7 The National Agency shall promote the respect of human rights and respect applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards. The National Agency shall not support activities that contribute to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion.

### **ARTICLE 3 – OBLIGATIONS REGARDING INFORMATION AND REPORTING**

#### **General issues**

- 3.1 The National Agency shall provide the European Commission with full information on the implementation of the Action in Annex I to this Agreement. The National Agency shall submit to the European Commission progress report(s) and a final report, which are part of the Yearly National Agency Report, in accordance with the provisions below. These reports shall consist of a narrative part and a financial part.
- 3.2 Every report, whether progress or final, shall provide a complete account of all relevant aspects of the implementation of the Action for the period covered. The report shall describe the implementation of the Action according to the activities envisaged in Annex I as well as the degree of achievement of its Results (Outcomes or Outputs) as measured by corresponding Indicators. The report shall be drafted in such a way as to allow monitoring of the objective(s), the means envisaged and employed. The level of detail in any report shall match that of Annexes I and III.
- 3.3 Any alternative or additional reporting requirement shall be set out in the Special Conditions.

- 3.4 The European Commission may request at any time and in the format it requires, additional information, reports or documents, providing the reasons for that request. Such information, reports or documents shall be supplied within thirty (30) days of receipt of the request. The National Agency may submit a duly motivated request to extend the 30-day deadline.
- 3.5 The National Agency shall notify the European Commission without delay of any circumstances likely to adversely affect the implementation and management of the Action, or to delay or jeopardise the performance of the activities.

### **Content of the reports**

- 3.6 The progress report(s), which is part of the Yearly National Agency Report, shall relate directly to this Agreement and shall at least include:
- a) summary and context of the Action;
  - b) actual Results: an updated table based on a logical framework matrix including reporting of Results achieved by the Action (Outcomes or Outputs) as measured by their corresponding Indicators, agreed baselines and targets, and relevant data sources;
  - c) information on the activities directly related to the Action as described in Annex I and carried out during the reporting period;
  - d) information on the difficulties encountered and measures taken to overcome problems and eventual changes introduced;
  - e) information on the implementation of the Visibility and Communication Plan (Annex I) and any additional measures taken to identify the EU as source of financing;
  - f) a breakdown of the total costs, following the structure set out in Annex III, incurred from the beginning of the Action as well as the legal commitments entered into by the National Agency during the reporting period;
  - g) a summary of controls carried out and available final audit reports in line with the National Agency's policy on disclosure of such controls and audit reports. Where errors and weaknesses in systems were identified, an analysis of their nature and extent, as well as information on corrective measures taken or planned, shall also be provided;
  - h) where applicable, a request for payment;
  - i) work plan and budget forecast for the next reporting period.
- 3.7 The final report shall cover the entire Implementation Period as indicated in Article I.2 and include:
- a) all the information requested in Article II.3.6 a) to h);
  - b) a summary of the Action's receipts, payments received and of the eligible costs incurred;
  - c) where applicable, an overview of any funds unduly paid or incorrectly used which the National Agency could or could not recover itself;
  - d) the exact link to the webpage where, according to Article II.24.1, information on Grant Beneficiaries and Contractors is available;
  - e) where applicable, a request for payment.

- 3.8 The National Agency shall submit a Yearly National Agency Report under the terms and conditions specified in Article I.6 of the Special Conditions.

#### **Management declaration**

- 3.9 Every Yearly National Agency Report shall be accompanied by a management declaration.

#### **Audit or control opinion for the National Agency**

- 3.10 The National Agency shall be subject to an audit or control opinion performed by an Independent Audit Body in accordance with internationally accepted audit standards, establishing whether the accounts give a true and fair view, whether the control systems in place function properly, and whether the underlying transactions are managed in accordance with the provisions of this Agreement. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration mentioned in Article II.3.9 above.

#### **Currency for reporting**

- 3.11 The reports shall be submitted in the currency of the Agreement as specified in Article I.5.10 of the Special Conditions.
- 3.12 The National Agency shall convert legal commitments, the Action's receipts and costs incurred in currencies other than the accounting currency of the National Agency according to its usual accounting practices.

#### **Failure to comply with reporting obligations**

- 3.13 If the National Agency is unable to present a Yearly Report, together with the supporting documents, within the deadline set out in Article II.3.8, the National Agency shall inform the European Commission in writing of the reasons. The National Agency shall also provide a summary of the state of progress of the Action and, where applicable, a provisional work plan for the next period. If the National Agency fails to comply with this obligation for two (2) months, following the deadline set out in Article II.3.8, the European Commission may terminate the Agreement in accordance with Article II.14, refuse to pay any outstanding amount and recover any amount unduly paid.

### **ARTICLE 4 – LIABILITY TOWARDS THIRD PARTIES**

- 4.1 The European Commission shall not, under any circumstances or for any reason whatsoever, be held liable for damage or injury sustained by the staff or property of the National Agency while the Action is being carried out, or as a consequence of the Action. The European Commission shall not therefore accept any claim for compensation or increase in payment in connection with such damage or injury.
- 4.2 The European Commission shall not, under any circumstances or for any reason whatsoever, be held liable towards third parties, including liability for damage or injury of any kind sustained by them in respect of or arising out of the implementation of the Action.

- 4.3 The National Agency shall discharge the European Commission of all liability associated with any claim or action brought as a result of an infringement of the National Agency's Regulations and Rules committed by the National Agency or National Agency's employees or individuals for whom those employees are responsible, or as a result of a violation of a third party's rights in the context of the implementation of the Action.

#### **ARTICLE 5 – CONFLICT OF INTERESTS**

- 5.1 The National Agency shall take all necessary precautions to avoid conflicts of interests and shall formally notify the European Commission without delay of any situation constituting or likely to lead to any such conflict. The National Agency shall refrain from any action which may give rise to a conflict of interest. The National Agency shall immediately take all the necessary steps to rectify this situation. The Commission reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.
- 5.2 A conflict of interest shall be deemed to arise where the impartial and objective exercise of the functions of any person implementing the Agreement is compromised.

#### **ARTICLE 6 – CONFIDENTIALITY**

- 6.1 The European Commission and the National Agency shall both preserve the confidentiality of any document, information or other material directly related to the implementation of the Action that is communicated as confidential. The confidential nature of a document shall not prevent it from being communicated to a third party on a confidential basis when the rules binding the Parties, so require. In no case can disclosure put in jeopardy the Parties' privileges and immunities or the safety and security of the Parties' staff, Contractors, Grant Beneficiaries or the Final Beneficiaries of the Action.
- 6.2 The Parties shall obtain each other's prior written consent before publicly disclosing such confidential information unless:
- a) the communicating Party agrees in writing to release the other Party from the earlier confidentiality obligations; or
  - b) the confidential information becomes public through other means than in breach of the confidentiality obligation by the Party bound by that obligation; or
  - c) the disclosure of confidential information is required by law or by Regulations and Rules established in accordance with the basic constitutive document of any of the Parties.
- 6.3 The Parties shall remain bound by confidentiality for five (5) years after the End Date of the Agreement, or longer as specified by the communicating Party at the time of communication.

## ARTICLE 7 – DATA PROTECTION

### Processing of personal data by the European Commission as data controller

- 7.1 Any personal data under the Agreement will be processed by the European Commission pursuant to Regulation (EU) 2018/1725<sup>3</sup>.

Such data shall be processed by the data controller identified in Article I.9 of the Special Conditions solely for the purposes of the implementation, management, monitoring and evaluation of the Erasmus+ programme and the European Solidarity Corps programme, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of Union law.

The National Agency shall have the right of access, rectify or erase its own personal data and the right to restrict or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, it must send any queries about the processing of its personal data to the data controller identified in Article I.9 of the Special Conditions.

The National Agency may have recourse at any time to the European Data Protection Supervisor.

- 7.2 The purpose of the data processing, the categories of personal data which may be processed, the recipients of data and the categories of data subjects are described in the relevant data protection records published by the data controller.
- 7.3 The rights of the data subject are further explained in the relevant privacy statements as well as information on how to contact the data controller (see also privacy statements for Erasmus+ and the European Solidarity Corps: <https://webgate.ec.europa.eu/erasmus-esc/index/privacy-statement>).

### Processing of personal data by the National Agency as data processor

- 7.4 The National Agency shall ensure an appropriate protection of personal data of programme applicants, contractors and beneficiaries receiving funding under the Agreement in compliance with applicable EU and/or national law on data protection (including authorisations or notification requirements), Regulation (EU) 2018/1725 and in accordance with section 6 of Annex VI.

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<sup>3</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

7.5 The National Agency shall:

- a) process the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by the Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
- b) ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- c) take all measures required pursuant to Article 33 of Regulation (EU) 2018/1725;
- d) respect the conditions referred to in paragraphs 2 and 4 of Article 29 of Regulation (EU) 2018/1725 for engaging another processor;
- e) take into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of Regulation (EU) 2018/1725;
- f) assist the controller in ensuring compliance with the obligations pursuant to Articles 33 to 41 of Regulation (EU) 2018/1725 taking into account the nature of processing and the information available to the processor;
- g) at the choice of the controller, delete or return all the personal data to the controller after the end of the provision of services relating to processing, and delete existing copies unless Union or Member State law requires storage of the personal data;
- h) make available to the controller all information necessary to demonstrate compliance with the obligations laid down in Article 29 of Regulation (EU) 2018/1725 and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller.

7.6 In particular, personal data shall be:

- a) processed lawfully, fairly and in a transparent manner in relation to the data subject;
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) accurate and, where necessary, kept up to date;
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
- f) processed in a manner that ensures appropriate security of the personal data.



## **ARTICLE 8 – COMMUNICATION AND VISIBILITY**

- 8.1 The National Agency shall implement the Communication and Visibility Plan detailed in Annex I.
- 8.2 Unless the European Commission requests or agrees otherwise, the National Agency shall take all appropriate measures to publicise the fact that the Action has received funding from the EU. Information given to the press and to the final beneficiaries, as well as all related publicity material (such as brochures, leaflets, posters, presentations, etc.), official notices, reports and publications, conferences and seminars, shall acknowledge that the Action was carried out ‘with funding by the European Union’ and shall display the EU emblem (twelve yellow stars on a blue background) in an appropriate way. Publications by the Organisation pertaining to the Action, in whatever form and whatever medium, including the internet, shall carry the following disclaimer: ‘This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.’ Such measures shall be carried out in accordance with any other guidelines agreed between the European Commission and the National Agency.
- 8.3 The acknowledgement and the EU emblem shall be of such a size and prominence as to be clearly visible in a manner that shall not create any confusion regarding the identification of the Action as an activity of the National Agency.
- 8.4 Unless otherwise provided in the Special Conditions, if disclosure risks threatening the National Agency’s safety or harming its interests, the European Commission may publish in any form and medium, including on its internet sites, the name and address of the National Agency, the purpose and the amount of the EU contribution.
- 8.5 The National Agency shall ensure that reports, publications, press releases and updates relevant to the Action are communicated to the addresses stated in the Special Conditions upon their issuance.
- 8.6 The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the visibility requirements set out in this Article. This is without prejudice to the measures the European Commission may take in case of substantial breach of an obligation.

## **ARTICLE 9 – RIGHTS TO USE RESULTS**

- 9.1 Ownership of the results of the Action shall not vest in the European Commission. Subject to Article II.6, the National Agency shall grant, and shall act to ensure that any third party concerned grants the European Commission the right to use free of charge all the results of the Action, whatever their form, including the reports and other documents relating to it, which are subject to industrial or intellectual property rights.
- 9.2 Where the results mentioned in Article II.9.1 include pre-existing industrial and intellectual property rights and the National Agency cannot warrant the European Commission the right to use such results, the National Agency shall inform in writing the European Commission accordingly.

- 9.3 In the case of funding by the National Agency in the form of contracts, ownership title and industrial and intellectual property rights of the results of the contract and the reports and other documents relating to it shall vest in the National Agency, unless otherwise agreed by the National Agency.
- 9.4 In the case of funding by the National Agency in the form of grants, ownership title and industrial and intellectual property rights of the results of the grant and the reports and other documents relating to it shall vest in the grant beneficiaries.
- 9.5 The National Agency shall ensure that it, its contractors and beneficiaries have all rights to use any pre-existing industrial and intellectual property rights including rights of third parties ('pre-existing rights') in the results.

#### **ARTICLE 10 – MONITORING AND EVALUATION OF THE ACTION**

- 10.1 Keeping in mind the commitment of the Parties to the effective and efficient implementation of the Agreement, the National Agency may invite representatives of the European Commission to participate at their own costs to the main monitoring missions and evaluation exercises related to the performance of the Action. Participation in evaluation exercises should be ensured by requesting comments from the European Commission on the terms of reference before the exercise takes place, and on the different deliverables related to an evaluation exercise prior to their final approval (as a minimum, on the final report). Upon request, the National Agency shall send all monitoring and evaluation reports relating to the Action to the European Commission once issued, subject to confidentiality.
- 10.2 Article II.10.1 is without prejudice to any monitoring mission or evaluation exercise, which the European Commission, at their own costs, may wish to perform. Monitoring and evaluation missions by representatives of the European Commission shall be planned ahead and completed in a collaborative manner between the staff of the National Agency and the European Commission's representatives, keeping in mind the commitment of the Parties to the effective and efficient operation of the Agreement. The European Commission and the National Agency shall agree on procedural matters in advance. The European Commission shall make available to the National Agency the terms of reference of the evaluation exercise before it takes place, as well as the different deliverables (as a minimum, the draft final report) for comments prior to final issuance. The European Commission shall send the final monitoring and evaluation report to the National Agency once issued.
- 10.3 The National Agency and the European Commission may also carry out joint monitoring and/or evaluations. Such arrangements will be discussed and agreed in due time, planned ahead and completed in a collaborative manner.
- 10.4 Whenever the European Commission carries out an evaluation, study or analysis of the entrusted tasks or the implementation of the programme, the National Agency undertakes to make available to the European Commission and/or persons authorised by it all the necessary documents or information that will allow the evaluation, study or analysis to be successfully completed and to give them the rights of access specified in Article II.18.2.

- 10.5 If the National Agency carries out or commissions an evaluation of the impact of the implementation of the entrusted tasks, it shall provide the European Commission with a copy of the evaluation report.

#### **ARTICLE 11 – AMENDMENT TO THE AGREEMENT**

- 11.1 Without prejudice to Articles II.11.3 to II.11.7, any amendment to this Agreement, including its annexes, shall be set out in writing in an addendum signed by both Parties. This Agreement can only be amended before the End Date.
- 11.2 The requesting Party shall request in writing any amendment thirty (30) days before the amendment is intended to enter into force and no later than thirty (30) days before the End Date, unless there are special circumstances, duly demonstrated by it, and accepted by the other Party. The other Party shall notify its decision regarding the amendment proposed in due time and in any case no later than thirty (30) days after the date when the amendment request was received.
- 11.3 By way of derogation from Articles II.11.1 and II.11.2, with regard to the EU contribution to grant support as indicated in Article I.3.4 of the Special Conditions:
- where a modification to Annex I and/or Annex III does not affect the main purpose of the Action, such as its objectives, strategy and priority areas, and
  - a transfer involving a variation (as the case may be in cumulative terms) of up to 35 % of the amount originally entered for an action (as indicated in Annex III), from which the budget is transferred and provided that the transfer does not increase or decrease by more than 35% of the amount originally entered of the action (as indicated in Annex III),
- the National Agency may unilaterally amend Annex I and/or Annex III and shall inform the European Commission accordingly in writing, at the latest in the next report.
- 11.4 The method described in Article II.11.3 shall not be used to amend the EU contribution to the management costs and, where applicable, the EU contribution to network costs, nor, where applicable the agreed methodology or fixed amounts/rates of simplified cost options.
- 11.5 The National Agency may, in agreement with the European Commission, change Outputs, the Indicators and their related targets, baselines and sources of verification described in Annex I if the change does not affect the main purpose of the Action, without the need for a formal addendum to the Agreement.
- 11.6 Changes of the legal representative or director of the National Agency, of the address or of the bank account of the National Agency shall be notified in writing to the European Commission. The supporting documents to accompany this notification shall be in line with section 7.4 of Annex VI. Where applicable, changes of bank account must be specified in the request for payment, using the financial identification form attached as Annex IV.

## ARTICLE 12 – FORCE MAJEURE

- 12.1 A party faced with *force majeure* must send a *formal notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.
- 12.2 The parties must take the necessary measures to limit any damage due to *force majeure*. They shall do their best to resume the implementation of the entrusted tasks as soon as possible.
- 12.3 The party faced with *force majeure* may not be considered in breach of its obligations under the Agreement if it has been prevented from fulfilling them by *force majeure*.

## ARTICLE 13 – SUSPENSION

- 13.1 The European Commission may suspend the time limit for the payment specified in Article I.5 of the Special Conditions at any time following a payment request by notifying the National Agency that either:
- a) the amount is not due; or
  - b) the amount does not comply with the provisions of this Agreement; or
  - c) the appropriate supporting documents have not been provided and therefore the European Commission needs to request clarifications, modifications or additional information to the narrative or financial reports. Such clarifications or additional information may notably be requested by the European Commission if it has doubts about compliance by the National Agency with its obligations in the implementation of the Action; or
  - d) credible information has come to the notice of the European Commission that puts in doubt the eligibility of the reported expenditure; or
  - e) credible information has come to the notice of the European Commission that indicates a significant deficiency in the functioning of the Internal Control System of the National Agency or that the expenditure reported by the National Agency is linked to a serious irregularity and has not been corrected. In this case, the European Commission may suspend the payment deadline if it is necessary to prevent significant damage to the EU's financial interests.
- 13.2 In the situations listed in Article II.13.1, the European Commission shall notify the National Agency as soon as possible, and in any case within sixty (60) days from the date on which the payment request was received, of the reasons for the suspension, specifying - where applicable - the additional information required. Suspension shall take effect on the date when the European Commission sends the notification stating the reasons for the suspension. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further checks, including on-the-spot checks are carried out. If the requested information or documents are not provided within the deadline fixed in the notification or are incomplete, payment may be made on the basis of the partial information available.

## **Suspension of the Agreement by the European Commission**

- 13.3 The European Commission may suspend the implementation of the Agreement, fully or partly, if:
- a) the European Commission has proof that irregularities, fraud or breach of substantial obligations have been committed by the National Agency in the procedure of its selection, in its pillar assessment or in the implementation of the Action;
  - b) the European Commission has proof that irregularities, fraud or breach of obligations have occurred which call into question the reliability or effectiveness of the National Agency's Internal Control System or the legality and regularity of the underlying transactions;
  - c) the European Commission has proof that the National Agency has committed irregularities, fraud or breaches of obligations under other agreements funded by EU funds provided that those irregularities, fraud or breaches of obligations have a material impact on this Agreement.
- 13.4 Before suspension, the European Commission shall formally notify the National Authority and the National Agency of its intention to suspend, inviting the National Agency to make observations within thirty (30) days from the receipt of the notification. If the National Agency does not submit observations, or if - after examination of the observations submitted by the National Agency - the European Commission decides to pursue the suspension, the European Commission may suspend all or part of the implementation of this Agreement on the day of the receipt of the notification by the National Agency or on a later date, as indicated in the notification. In case of suspension of part of the implementation of the Agreement, upon request of the National Agency, the Parties shall enter into discussions in order to find the arrangements necessary to continue the part of the implementation that is not suspended. Any expenditures or costs incurred by the National Agency during the suspension and related to the part of the Agreement suspended shall not be reimbursed, nor be covered by the European Commission. Following suspension of the implementation of the Agreement, the European Commission may terminate the Agreement in accordance with Article II.13.2, recover amounts unduly paid and/or, in agreement with the National Agency, resume implementation of the Agreement. In the latter case, the Parties will amend the Agreement where necessary.

### **Suspension for exceptional circumstances**

- 13.5 The National Agency may decide to suspend the implementation of all or part of the Action if exceptional or unforeseen circumstances beyond the control of the National Agency make such implementation impossible or excessively difficult, such as in cases of *Force Majeure*. The National Agency shall inform the European Commission immediately and provide all the necessary details, including the measures taken to minimise any possible damage, and the foreseeable effect and date of resumption.
- 13.6 The European Commission may also notify the National Agency of the suspension of the implementation of the Agreement if exceptional circumstances so require, in particular:

- a) when a relevant EU Decision identifying a violation of human rights has been adopted; or
  - b) in cases such as crisis entailing a change of EU policy.
- 13.7 Neither of the Parties shall be held liable for breach of its obligations under the Agreement if Force Majeure or exceptional circumstances as set forth under Articles II.13.5 and II.13.6 prevent it from fulfilling said obligations, and provided it takes any measures to minimise any possible damage.
- 13.8 In the situations listed in Articles II.13.5 and II.13.6, the Parties shall minimise the duration of the suspension and shall resume implementation once the conditions allow. During the suspension period, the National Agency shall be entitled to the reimbursement of the minimum costs, including new legal commitments, necessary for a possible resumption of the implementation of the Agreement or of the Action. The Parties shall agree on such costs, including the reimbursement of legal commitments entered into for implementing the Action before the notification of the suspension was received which the National Agency cannot reasonably suspend, reallocate or terminate on legal grounds. This is without prejudice to any amendments to the Agreement that may be necessary to adapt the Action to the new implementing conditions, including, if possible, the extension of the Implementation Period or to the termination of the Agreement in accordance with Article II.14.3. In case of suspension due to Force Majeure, the Implementation Period is automatically extended by an amount of time equivalent to the duration of the suspension.

#### **ARTICLE 14 – TERMINATION**

- 14.1 Without prejudice to any other provision of these General Conditions or penalties foreseen in the EU Financial Regulation, where applicable, and with due regard to the principle of proportionality, the European Commission may terminate the Agreement if the National Agency:
- a) fails to fulfil a substantial obligation incumbent on it under the terms of the Agreement;
  - b) is guilty of misrepresentation or submits false or incomplete statements to obtain the EU Contribution or provides reports that do not reflect reality to obtain or keep the EU Contribution without cause;
  - c) is bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of any other similar proceedings concerning those matters or is in an analogous situation arising from a similar procedure provided for in national legislation or regulation;
  - d) is guilty of Grave Professional Misconduct proven by any justified means;
  - e) has committed fraud, corruption, is involved in a criminal organisation, money laundering or any other illegal activity to the detriment of the EU's financial interests on the basis of proof in the possession of the European Commission;
  - f) fails to comply with the reporting obligations in accordance with Article II.3.14;

- g) has committed any of the failings described in Article II.13.3 on the basis of proof in the possession of the European Commission;
- h) has undergone changes in its legal, financial, technical, organisational or ownership situation or in its systems, rules or procedures which are likely to affect substantially the implementation of the entrusted tasks or call into question the assessment by the European Commission of its rules and procedures or the acceptance of its designation by the European Commission as the National Agency for the concerned programme;
- i) in the event of force majeure, notified in accordance with Article II.12, or in the event of suspension of the implementation of the entrusted tasks by the National Agency, as indicated in Article II.13 where resuming the implementation is impossible or would call into question the assessment by the European Commission of its rules and procedures or the acceptance of its designation by the European Commission as the National Agency for the concerned programme;
- j) if the National Authority of the participating country revokes the designation in accordance with Article 26(12) of the Erasmus+ Regulation<sup>4</sup>.

14.2 Before terminating the Agreement in accordance with Article II.14.1, the European Commission shall formally notify the National Authority and the National Agency of its intention to terminate, inviting the National Agency to make observations (including proposals for remedial measures) within forty-five (45) days from the receipt of the notification. During this period, and until the termination takes effect, the European Commission may suspend the time limit for any payment in accordance with Article II.13.2 as a precautionary measure informing the National Agency immediately in writing. If the National Agency does not submit observations, or if, after examination of the observations submitted by the National Agency, the European Commission decides to pursue the termination, the European Commission may terminate the Agreement serving seven (7) days' prior notice. During that period, the National Agency may refer the matter to the responsible authorising officer in the European Commission. The termination will take effect if and when confirmed by the responsible authorising officer of the European Commission. In case of termination, the European Commission may demand full repayment of any amounts paid in excess of the final amount determined in accordance with Article II.21 after allowing the National Agency to submit its observations. Neither Party shall be entitled to claim indemnity by the other Party on account of the termination of this Agreement.

14.3 If, at any time, either Party believes that the purpose of the Agreement can no longer be effectively or appropriately performed, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Agreement by serving sixty (60) days written notice. In this case, the final amount shall cover:

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<sup>4</sup> Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013.

- a) payment only for the part of the Action carried out up to the date of termination;
- b) in the situations described in Articles II.13.5 and II.13.6, the unavoidable residual expenditures incurred during the notice period; and,
- c) in the situations described in Articles II.13.5 and II.13.6, reimbursement of legal commitments the National Agency entered into for implementing the Action before the written notice on termination was received by it and which the National Agency cannot reasonably terminate on legal grounds.

The European Commission shall recover the remaining part in accordance with Article II.16.

- 14.4 In the event of termination, a final report and a request for payment of the balance shall be submitted in accordance with Articles II.3 and II.20. The European Commission shall not reimburse or cover any expenditure or costs which are not included or justified in a report approved by it.

#### **ARTICLE 15 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

- 15.1 The Parties shall endeavour to settle amicably any disputes or complaints relating to the interpretation, application or validity of the Agreement, including its existence or termination.
- 15.2 This Agreement is governed by EU law, complemented - if necessary - by the relevant provisions of Belgian law. In the absence of an amicable settlement in accordance with Article II.15.1 above, the General Court, or on appeal the Court of Justice of the European Union, has sole jurisdiction. Such actions must be brought under Article 272 of the Treaty on the Functioning of the EU (TFEU). Notwithstanding the foregoing sentence, where the National Agency is not established or incorporated in the EU, any of the Parties may bring before the Brussels courts any dispute between them concerning the interpretation, application or validity of the Agreement, if such dispute cannot be settled amicably. Where one party has brought proceedings before the Brussels courts, the other party may not bring a claim arising from the interpretation, application or validity of the Agreement in any other court than the Brussels courts before which the proceedings have already been brought.

#### **ARTICLE 16 – RECOVERY**

##### **Recovery by the European Commission**

- 16.1 Where an amount is to be recovered under the terms of the Agreement, the National Agency shall repay the amount due to the European Commission.
- 16.2 With reference to Article II.18, in the case of final audit findings made after the payment of the balance, the amount to be recovered shall correspond to the difference between the total amount paid to the National Agency in accordance with Article I.3 of the Special Conditions and the final amount of the contribution determined in accordance with Article II.21.



- 16.3 Before recovery, the European Commission shall formally notify the National Agency of its intention to recover any undue amount, specifying the amount and the reasons for recovery and inviting the National Agency to make any observations within fifteen (15) days from the date of receipt of the pre-information letter. If the amount to be recovered as calculated by the European Commission equals the amount declared in the National Agency Yearly Report or results from an audit report that has already been subject to an adversary procedure, the European Commission will issue the debit note without pre-information letter to the National Agency.
- 16.4 If, after examination of the observations submitted by the National Agency or if the National Agency does not submit any observations, the European Commission decides to pursue the recovery procedure, it may confirm the recovery by formally notifying the National Agency by sending a debit note specifying the terms and the date for payment.
- 16.5 If the National Agency does not make the payment by the date specified in the debit note, the European Commission shall recover the amount due:
- a) by offsetting it against any amounts owed to the National Agency by the EU;
  - b) by taking legal action pursuant to Article II.15;
  - c) in exceptional circumstances justified by the necessity to safeguard the financial interests of the EU, the European Commission may, when it has justified grounds to believe that the amount due would be lost, recover by offsetting before the deadline specified in the debit note without the National Agency's prior consent.
- 16.6 If the National Agency fails to repay by the due date, the amount due shall be increased by late payment interest calculated at the rate indicated in Article II.20.12(a). The interest shall be payable for the period elapsing from the day after the expiration of the time limit for payment up to and including the date when the European Commission actually receives payment in full of the outstanding amount. Any partial payment shall first cover the charges and interest on late payment and then against the principal amount.
- 16.7 Bank charges incurred in connection with the recovery of the sums owed to the European Commission shall be borne by the National Agency, except where Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.
- 16.8 The amounts corresponding to outstanding recovery orders will be reported annually in the Yearly National Agency Report, until all these amounts are recovered or waived by the European Commission.

- 16.9 The European Commission may only waive the recovery of all or parts of amounts to be repaid by the National Agency in accordance with the principle of Sound Financial Management and proportionality and if the conditions set out in Article 101 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup> are met, or it shall cancel the amount in the event of a mistake.

### **Recovery by the National Agency**

- 16.10 The National Agency shall recover from contractors and beneficiaries any amount that was paid to them but is not due under the terms of the contracts or grant agreements. The National Agency shall take any necessary legal actions for that purpose.

## **ARTICLE 17 – ACCOUNTS AND ARCHIVING**

### **Accounting**

- 17.1 The National Agency shall keep accurate and regular records and accounts of the implementation of the Action. The accounting Regulations and Rules of the National Agency shall apply to the extent that they ensure accurate, complete, reliable and timely information. Financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the Regulations and Rules of the National Agency.

### **Archiving**

- 17.2 For a period of five (5) years from the End Date and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim or investigation by the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) (if applicable), if notified to the National Agency, has been disposed of, the National Agency shall keep and make available according to Article II.18 all relevant financial information (example: accounting and tax records) (originals or copies) related to the Agreement stored on any appropriate medium, including digitalised originals when they are authorised by its national law and under the conditions laid down therein, and to any Procurement Contracts and Grant agreements financed by the EU Contribution.

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<sup>5</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

## ARTICLE 18 – ACCESS AND FINANCIAL CHECKS

### By the European Commission

- 18.1 The European Commission may carry out technical and financial checks and audits in relation to the use of the EU contribution. Information and documents provided in the framework of checks or audits shall be treated on a confidential basis in line with Article II.6.

Checks and audits made by the European Commission may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the implementation of the Agreement and for a period of five years starting from the End Date.

In addition, the European Commission may carry out interim or final evaluation of the impact of the implementation of the entrusted tasks measures against the objectives of the Erasmus+ programme and the European Solidarity Corps programme.

The check, audit or evaluation procedure shall be deemed to be initiated on the date of receipt of the letter of the European Commission announcing it.

- 18.2 The National Agency shall provide any information, including information in electronic format, requested by the European Commission, or by any other outside body authorised by it, in the context of checks, audits or evaluations as referred to in Article II.18.3 in order to verify compliance with the Agreement.

In case the National Agency does not comply with the obligation set out in the first paragraph, the European Commission may consider any expenditure related to the use of funds for grant support or related to the contribution to networks insufficiently substantiated by information provided by the National Agency as unacceptable.

- 18.3 The National Agency shall allow the European Commission, or any authorised representatives, to conduct desk reviews and on-the-spot checks on the use made of the EU Contribution on the basis of supporting accounting documents and any other document related to the financing of the Action.
- 18.4 On the basis of the audit findings, a provisional report ('draft audit report') shall be drawn up. It shall be sent by the European Commission or its authorised representative to the National Agency, which shall have 30 days from the date of receipt to submit observations. The final report ('final audit report') shall be sent to the National Agency within 60 days of expiry of the time limit for submission of observations.
- 18.5 On the basis of the final audit findings, the European Commission may take the measures which it considers necessary, including financial corrections in line with Annex VII and recovery of all or part of the payments made by it, in accordance with Article II.16.

- 18.6 The National Agency agrees that OLAF and the European Public Prosecutor's Office (EPPO) (if applicable) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions laid down by EU law for the protection of the financial interests of the EU against fraud, corruption and any other illegal activity.
- 18.7 The National Agency agrees that the execution of this Agreement may be subject to scrutiny by the Court of Auditors when the Court of Auditors audits the European Commission's implementation of EU expenditure. In such case the National Agency shall provide to the Court of Auditors access to the information that is required for the Court to perform its duties.
- 18.8 To that end, the National Agency undertakes to provide officials of the European Commission, OLAF, the European Public Prosecutor's Office (EPPO) (if applicable) and the European Court of Auditors and their authorised agents, upon request, information and access to any documents and computerised data concerning the technical and financial management of operations financed under the Agreement, as well as grant them access to sites and premises at which such operations are carried out. The National Agency shall take all necessary measures to facilitate these checks in accordance with its Regulations and Rules. The documents and computerised data may include information that the National Agency considers confidential in accordance with its own established Regulations and Rules or as governed by contractual agreement. Such information once provided to the European Commission, OLAF, the European Public Prosecutor's Office (EPPO) (if applicable), the European Court of Auditors, or any other authorised representatives, shall be treated in accordance with EU confidentiality rules and legislation and Article II.6. Documents must be accessible and filed in a manner permitting checks, the National Agency being bound to inform the European Commission, OLAF, the European Public Prosecutor's Office (EPPO) (if applicable) or the European Court of Auditors of the exact location at which they are kept. Where appropriate, the Parties may agree to send copies of such documents for a desk review.
- 18.9 Where applicable, the desk reviews, investigations, on-the-spot checks and inspections referred to in Articles II.18.1 to II.18.5 shall refer to a verification that shall be performed in accordance with the verification clauses agreed between the National Agency and the European Commission. This is without prejudice to any cooperation arrangement between OLAF, the European Public Prosecutor's Office (EPPO) (if applicable) and the National Agency's anti-fraud bodies.
- 18.10 The European Commission shall inform the National Agency of the planned on-the-spot missions by agents appointed by the European Commission in due time in order to ensure adequate procedural matters are agreed upon in advance.
- 18.11 Failure to comply with the obligations set forth in Article II.18 constitutes a case of breach of a substantial obligation under this Agreement.

## **By the National Agency**

- 18.12 The National Agency shall carry out, in accordance with section 5.4 of Annex VI, ex-ante and ex-post controls including, where appropriate, on-the-spot checks on representative samples of transactions to ensure that underlying transactions are legal and regular and that actions financed from the Union budget are effectively carried out and implemented correctly.
- 18.13 The National Agency shall take account of risk and cost-efficiency considerations when designing its control approach. The sample of transactions shall include a risk-based part and a random part. The random part shall be representative. The sampling shall be designed in line with the relevant technical instructions in order to provide reasonable assurance as to the legality and regularity and sound financial management of the underlying transactions.

## **ARTICLE 19 – ELIGIBILITY OF COSTS**

- 19.1 Costs related to the grant support and, if applicable to the contribution to networks, are eligible for EU financing if they meet all the following criteria:
- a) they are necessary for carrying out the Action, directly attributable to it, arising as a direct consequence of its implementation and charged in proportion to the actual use;
  - b) they are incurred in accordance with the provisions of this Agreement;
  - c) they are actually incurred by the National Agency, i.e. they represent real expenditure definitely and genuinely borne by the National Agency, without prejudice to Article II.19.5. Amounts corresponding to recovery orders of the National Agency towards any beneficiary, shall not be considered by the European Commission as actually incurred;
  - d) they are reasonable, justified, comply with the principle of sound financial management;
  - e) they are incurred during the Implementation Period as set in Article I.2 of the Special Conditions with the exception of costs related to final report, final evaluation, audit and other costs linked to the closure of the Action which may be incurred after the Implementation Period;
  - f) they are identifiable and backed by supporting documents, in particular determined and recorded in accordance with the accounting practices of the National Agency;
  - g) they are covered by one of the budget headings indicated in the estimated budget in Annex III and by the activities described in Annex I; and
  - h) they comply with the applicable tax and social legislation taking into account the National Agency's privileges and immunities.
- 19.2 The following costs are considered eligible: management costs, which constitute expenditure that is considered as necessary and arising as a consequence of implementation of the Action and supporting the implementation of the Action and not considered part of the activities as described in Annex I.

- 19.3 In case of EU contribution for grant support and EU contribution to networks, the following costs are ineligible for EU financing:
- a) bonuses, provisions, reserves costs. Employers' contributions to pension or other insurance funds run by the National Agency may only be eligible under the management costs to the extent they do not exceed the actual payments made by these schemes and that the amount provisioned does not exceed the contribution that could have been made to an external fund;
  - b) duties, taxes and charges, including VAT, that are recoverable/deductible by the National Agency;
  - c) debts and debt service charges;
  - d) provision for losses, debts or potential future liabilities;
  - e) banking charges for the transfers from and to the European Commission;
  - f) costs incurred during the suspension of the implementation of the Agreement except the minimum costs agreed on in accordance with Article II.13.8;
  - g) costs declared by the National Agency under another agreement financed by the European Union budget;
  - h) contributions in kind. The cost of staff assigned to the Action and actually incurred by the National Agency is not a contribution in kind and may be declared as eligible expenditure if it complies with the conditions set out in Article II.19.1; and
  - i) costs of purchase of land or buildings, unless otherwise provided in the Special Conditions;
  - j) expenditure resulting from commitments made during suspension of the implementation of the Agreement as set out in Article II.13.
- 19.4 The provisions of Article II.19.3 do not apply to the contribution to management costs.

### **Simplified cost options**

- 19.5 Eligible costs may also be declared by using any or a combination of unit costs, lump sums and flat-rate financing.
- 19.6 The methods used by the National Agency to determine unit costs, lump sums or flat-rates shall comply with the principles provided in Articles II.19.1, II.19.2 and II.19.4, be clearly described and substantiated in Annex III, shall avoid double funding of costs and shall respect the principle of Sound Financial Management. These methods shall be based on the National Agency's historical or actual accounting data, its usual accounting practices, an expert judgment or on statistical or other objective information where available and appropriate.
- 19.7 Costs declared under simplified cost options do not need to be backed by accounting or supporting documents except if they are necessary to demonstrate that the costs have been declared according to the declared method or cost accounting practices and that the qualitative and quantitative conditions defined in Annex I and Annex III have been respected.

- 19.8 Simplified cost options not linked to the achievement of concrete Results shall only be eligible if they have been ex ante-assessed by the European Commission.
- 19.9 If a verification reveals that the methods used by the National Agency to determine unit costs, lump sums or flat-rates are not compliant with the conditions established in this Agreement, the European Commission shall be entitled to recover proportionately up to the amount of the unit costs, lump sums or flat-rate financing.

## **ARTICLE 20 – PAYMENTS**

### **Pre-financing**

- 20.1 The European Commission shall provide a first pre-financing instalment covering for grant support, management costs and (if applicable) network costs as set out in Article I.5.1 of the Special Conditions within thirty (30) days of the entry into force of this Agreement.
- 20.2 The National Agency may submit a request for further pre-financing for grant support and the following provisions apply:
- a) the reporting period covers for the period between the entry into force of the Contribution Agreement and the date on which the request for further pre-financing is submitted by the National Agency. The request for further pre-financing payment must be accompanied by a financial report, summarising the financial transactions made with the funds for grant support allocated in accordance with the Agreement;
  - b) the National Agency may submit a request for further pre-financing payment before the end of the reporting period, once more than 70 % of the immediately preceding payment (and 100% of previous payments, if any) has been paid by the National Agency to the beneficiaries of the funds for grant support. In this case, the following reporting period starts anew from the end date of the period covered by this payment request;
  - c) if at the end of the reporting period less than 70% of the last payment (and 100% of previous payments, if any) has been paid by the National Agency to the beneficiaries of the grant support, the further pre-financing payment shall be reduced by the amount corresponding to the difference between the 70 % of the immediately pre-financing payment (and 100% of previous payments, if any) and the part of the previous pre-financing payments which has been paid by the National Agency to the beneficiaries of the funds for grant support;
  - d) if at the moment of a request for a final pre-financing more than the total amount of the previous pre-financing has been paid by the National Agency to the beneficiaries of the grant support and no further grants are to be awarded, the final pre-financing payment shall be limited to the amount corresponding to the difference between the total amount of funds for grant support already awarded to beneficiaries and the total amount of the previous pre-financing payments, to which shall be added the amount of interest yielded by the EU's previous pre-financing payments.

- 20.3 Except for the first pre-financing instalment, the payments shall be made upon approval of the payment request accompanied by a financial report.

#### **Payment of the balance**

- 20.4 The payment of the balance reimburses the remaining part of the financial contribution due for the implementation of the entrusted tasks, with the exception of amounts corresponding to recovery, in line with Article II.16.
- 20.5 At the end of the Implementation Period as set out in Article I.2 of the Special Conditions, the National Agency shall submit a request for payment of the balance. The request for payment of the balance shall be accompanied by the corresponding supporting documents.
- 20.6 The amount of the balance shall be determined following approval of the request for payment of the balance and of the accompanying documents by deducting the earlier payments from the final amount of the Union contribution determined in accordance with Article II.21.
- 20.7 If the balance is negative, the payment of the balance takes the form of recovery according to the procedure outlined in Article II.16. If the balance is positive, the European Commission shall pay it within 90 days from receiving the request for payment of the balance, except if the payment deadline or the payments are suspended in accordance with Articles II.13 and II.14.

#### **General provisions applying to payment requests**

- 20.8 Approval of the requests for payment and of the accompanying reports shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information contained therein. Approval shall be without prejudice to any checks and audits which may be carried out in accordance with Article II.18.
- 20.9 The requests for pre-financing payments and the request for the balance shall be drafted in Euro.
- 20.10 The European Commission shall make payments in Euro to the bank account referred to in the financial identification form in Annex IV. Payments by the European Commission shall be deemed to be effected on the date when they are debited to the European Commission's account.
- 20.11 Payment arrangements for performance-based financing in accordance with Article II.23 shall be set out in Article I.5 of the Special Conditions and Annex I.



## **Late payment interest**

20.12 In case of late payment of the amounts stated in Article I.5 of the Special Conditions the following conditions apply:

- a) upon expiry of the time limits for payments specified in Article II.21.1, the National Agency shall receive interest on late payment based on the rate applied by the European Central Bank for its main refinancing operations in Euros (Reference Rate), increased by three and a half percentage points. The Reference Rate shall be the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the Official Journal of the EU. This provision shall not apply where the National Agency is a public body acting on behalf of a Member State for the purpose of this Agreement.
- b) the suspension of the time limit for payment by the European Commission in accordance with Article II.13 or 14 shall not be considered as late payment;
- c) interest on late payment shall cover the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article II.20.1. Any partial payment shall first cover the interest;
- d) by way of exception to point (c), when the interest calculated in accordance with this provision is lower than or equal to EUR 200, the European Commission shall pay such interest to the National Agency only upon request from the National Agency submitted within two months of it receiving late payment;
- e) Late-payment interest is not considered for the purposes of determining the final amount of the Union contribution, in line with Article II.21.

## **ARTICLE 21 – FINAL AMOUNT OF THE EU CONTRIBUTION**

21.1 The European Commission shall determine the final amount of the EU Contribution when approving the National Agency's final report. The European Commission shall then determine the balance:

- a) to be paid to the National Agency in accordance with Article II.20 where the final amount of the EU Contribution is higher than the total amount already paid to the National Agency; or
- b) to be recovered from the National Agency in accordance with Article II.16 where the final amount of the EU Contribution is lower than the total amount already paid to the National Agency.

21.2 The final amount shall be the lower of the following amounts:

- a) the maximum EU Contribution referred to in Article I.3.1 of the Special Conditions in terms of absolute value;
- b) the amount referred to in Article I.3.1 of the Special Conditions obtained where applicable after reduction in line with Article II.19 and after reduction in accordance with Article II.21.3.

- 21.3 The final amount of the Union contribution depends on the actual extent to which the entrusted tasks are implemented in accordance with the Agreement. Where the Action (i) is not implemented, (ii) is not implemented in line with the Agreement or (iii) is implemented partially or late, the European Commission may, after allowing the National Agency to submit its observations, reduce the EU Contribution in proportion to the seriousness of the above mentioned situations, in accordance with Article II.22. The European Commission shall formally notify the National Agency of the final amount determined before paying the balance.

## **ARTICLE 22 – FINANCIAL CORRECTIONS**

- 22.1 Without prejudice to the recovery envisaged in Article II.16, the European Commission shall make financial corrections on the EU contribution to the National Agency in order to exclude expenditure incurred in breach of applicable law from Union financing.
- 22.2 The European Commission shall apply financial corrections where appropriate on the basis of the information provided in the National Agency Yearly Report, by the National Authority or the Independent Audit Body or as a result of checks or audits carried out in application of Article II.18. These corrections will be applied following the rules described in Annex VII of this Agreement.
- 22.3 Before applying the financial corrections the European Commission shall formally notify its intention to the National Agency, specifying the corrections it intends to apply and the reasons thereof. The National Agency shall be invited to submit observations within 30 calendar days from receipt of this notification.
- 22.4 If the European Commission does not receive any observations or if, despite the observations submitted by the National Agency, the European Commission decides to apply the financial corrections, it shall formally notify the National Agency of the confirmation of the financial corrections.

## **ARTICLE 23 – PERFORMANCE-BASED FINANCING**

- 23.1 The payment of the EU Contribution may be partly or entirely linked to the achievement of Results measured by reference to previously set milestones or through performance Indicators. Such performance-based financing is not subject to Article II.19. The relevant Results and the means to measure their achievement shall be clearly described in Annex I.
- 23.2 The amount to be paid per achieved Result shall be set out in Annex III. The method to determine the amount to be paid per achieved Result shall be clearly described in Annex I and take into account the principle of Sound Financial Management.
- 23.3 The National Agency shall not be obliged to report on costs linked to the achievement of Results. However, the National Agency shall submit any necessary supporting documents, including where relevant accounting documents, to prove that the Results triggering the payment as defined in Annex I and III have been achieved.

## **ARTICLE 24 – PUBLICATION OF INFORMATION ON CONTRACTORS AND GRANT BENEFICIARIES**

- 24.1 The National Agency shall publish, on an annual basis, on its internet site, the following information on procurement contracts exceeding EUR 15.000 and grants financed by the EU Contribution: title of the contract/agreement/project, nature and purpose of the contract/agreement/project, name and locality of the Contractor or Grant Beneficiary and amount of the contract/agreement/project. The term ‘locality’ shall mean the address for legal persons and the Region on NUTS<sup>6</sup> 2 level, or equivalent, for natural persons. This information shall not be published in relation to education support paid to natural persons and other direct support paid to natural persons in most need in accordance with section 4.15 of Annex VI. This information shall be published with due observance to the requirements of confidentiality security and in particular the protection of personal data. The publication shall be waived, if such disclosure risks threatening rights and freedoms as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of the Contractors or Grant Beneficiaries.
- 24.2 The National Agency shall provide to the European Commission the address of the internet site where this information can be found and shall authorise the publication of such address on the European Commission’s internet site.

## **ARTICLE 25 – CONTRACTING AND EARLY DETECTION AND EXCLUSION SYSTEM**

### **Contracting**

- 25.1 Unless otherwise provided for in the Special Conditions, the origin of the goods and the nationality of the organisations companies and experts selected for carrying out activities in the Action shall be determined in accordance with Article II.26 and section 8 of Annex VI. However, and in any event, goods, organisations, companies and experts eligible under the applicable regulatory provisions of the European Union shall be eligible. Without prejudice to the foregoing, to Annex VI or to the National Agency’s assessed Regulations and Rules, the National Agency shall promote the use of local contractors when implementing the Action.
- 25.2 The National Agency shall adopt reasonable measures, in accordance with Articles II.26 and II.27, to ensure that potential candidates or tenderers and applicants shall be excluded from the participation in a procurement or grant award procedure and from the award of a procurement contract or grant agreement financed by the EU Contribution, if the National Agency becomes aware that these entities:

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<sup>6</sup> Nomenclature of Territorial Units for Statistics, available at: <http://ec.europa.eu/eurostat/ramon>.

- a) or persons having powers of representation, decision making or control over them, have been the subject of a final judgement or of a Final Administrative Decision for fraud, corruption, involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
- b) or persons having powers of representation, decision making or control over them have been the subject of a final judgement or of a Final Administrative Decision for an irregularity affecting the EU's financial interest;
- c) are guilty of misrepresentation in supplying the information required as a condition of participation in the procedure or if they fail to supply this information;
- d) have been the subject of a final judgment or of a Final Administrative Decision establishing that the entities have created an entity under a different jurisdiction with the intention to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business;
- e) have been created with the intention described in point d) above as established by a final judgment or a Final Administrative Decision.

### **Early Detection and Exclusion System**

- 25.3 The National Agency shall designate a person responsible for relations with the Commission as regards all issues related to the early-detection and exclusion system (EDES).
- 25.4 The European Commission shall provide the National Agency, through the designated person, with access to the information contained in the EDES system for the purpose of implementing the entrusted funds.
- 25.5 The National Agency shall immediately, through the designated person, inform the European Commission if, in relation to the implementation of the Action, has detected a situation of exclusion pursuant to Article II.25.2 or its own positively assessed Regulations and Rules, as applicable, or if it has detected a fraud and/or an irregularity pursuant to Article II.2.3. This information may be used by the European Commission for the purpose of the Early Detection and Exclusion System. The National Agency shall inform the European Commission when it becomes aware that transmitted information needs to be rectified updated or removed. The National Agency shall ensure that the entity concerned is informed that its data was transmitted to the European Commission and may be included in the Early Detection and Exclusion System and be published on the website of the European Commission. These requirements cease at the end of the Implementation Period.
- 25.6 Without prejudice to the power of the European Commission to exclude a person or an entity from future procurement contracts and grants financed by the EU and/or to impose financial penalties according to the EU Financial Regulation, the National Agency may impose sanctions on third parties according to its own Regulations and Rules ensuring, where applicable, the right of defence of the third party.

25.7 The National Agency may take into account, as appropriate and on its own responsibility, the information contained in the Early Detection and Exclusion System, when implementing the EU Contribution. Access to the information can be provided through the authorised persons or via consultation with the European Commission as referred in Article I.7.3 of the Special Conditions<sup>7</sup>.

#### **ARTICLE 26 – PROCUREMENT RULES AND PROCEDURES**

26.1 All the public procurement contracts awarded as a result of the implementation of the entrusted tasks shall be awarded in accordance with section 8 of Annex VI and shall be signed before the End Date set out in Article I.2 of the Special Conditions.

26.2 The National Agency shall ensure that the conditions applicable to it under Articles II.4, II.5, II.6, II.18 are also applicable to contractors receiving funding under the Agreement.

#### **ARTICLE 27 – GRANTS RULES AND PROCEDURES**

27.1 All the grant agreements awarded as a result of the implementation of the entrusted tasks shall be awarded in accordance with section 4 and section 5 of Annex VI and shall be signed by the End Date in Article I.2 of the Special Conditions and in line with the Calendar for the use of funds set out in Annex V.

27.2 The National Agency shall ensure that the conditions applicable to it under Articles II.4, II.5, II.6, II.18 are also applicable to beneficiaries receiving funding under the Agreement.

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<sup>7</sup> The National Agency shall be allowed to have direct access to the Early Detection and Exclusion System through an authorised person when the National Agency certifies to the European Commission service responsible that it applies adequate data protection measures as provided in Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018.